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EDWARD BYRON REUTER, CONSULTING EDITOR

CRIMINAL BEHAVIOR

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Criminal Behavior

BY

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Dedicated to

MARTHA GOODALL WASHINGTON

and

WALTER WASHINGTON RECKLESS

PREFACE

Those who are even slightly familiar with the large and rich archives of criminological study appreciate the fact that a single volume of average size cannot compress within its pages all that is important to say about crime. The present work, therefore, has acted selectively on the material, data, and contributions available for the study of criminal behavior, in accordance with what appeared to the author to give the best insight into the nature, variation, treatment, and prevention of crime.

In view of the lack of verified knowledge, a dogmatic, authoritarian treatise on criminology is wholly unwarranted and quite unbecoming. Instead, a general work on criminology needs to recognize the severe shortcomings of extant knowledge and to contain an abundance of tentative and qualified statements.

The absence of anything approaching scientific positivism in the field of criminological study leads one to embrace a comparative point of view, *i.e.*, to consider the variations, in time and place, of criminal behavior itself and of the methods used to combat it. There is good reason to contend that criminal behavior can be most effectively studied by comparative methods and that criminology as an academic or professional course needs to be taught comparatively.

Although the author's indebtedness to many authorities, authors, publishers, and agencies is recognized in footnotes, he wishes to take this opportunity to express his deep gratitude for their assistance. In particular, he is greatly indebted to Margaret Adelaide Jackson for typing the manuscript, checking references, and making the index of names.

WALTER C. RECKLESS.

Nashville, Tenn.,
January, 1940.

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CRIMINAL BEHAVIOR

CHAPTER I

THE STUDY OF CRIMINAL BEHAVIOR IN PERSPECTIVE

The contributions to the study of criminal behavior have come from persons representing several disciplines: biology, physiology, psychology, anthropology, psychiatry, sociology, law, economics, history, government, police science, and public welfare. If criminology may be conceived broadly as the study of criminal behavior, it is indeed a highly cross-fertilized field of study. As such, it is not inbred as are many other specialized fields.

The hybrid status of criminology is at once an advantage and a disadvantage. Advantages certainly accrue from the many avenues of approach. But the separatism of the multiapproaches make it difficult for contributors to share the same universe of discourse, to weigh the importance of their work in terms of the value of other contributions, to follow clues uncovered by men in another discipline, to concentrate on certain knotty problems, and finally to agree on scientifically acceptable conclusions.

Criminology is, therefore, not a unified body of knowledge but rather a reservoir of diverse insights and, to a large extent, of unintegrated conclusions. Contrary to popular opinion, very few positive pronouncements can be made from its rich archives,[1] because most of its hypotheses and conclusions have not stood the test of verification. The probability that the accumulating knowledge in criminology will ever become reducible to verified universal laws is very slight indeed. The fondest hopes of some of the classicists for the development of criminology as a positive science show no indication of becoming realized.

The most fruitful lines of progress are open to criminology primarily as a comparative science, *i.e.*, as a study of the behavior of unlike individuals in various circumstances. Diverse situations and individuals of varying traits in these situations afford a wide range of comparable data regarding the nature, divergence, volume, and background of criminal

[1] See the two outstanding bibliographies: AUGUSTUS FREDERICK KUHLMAN, *A Guide to Material on Crime and Criminal Justice*, New York, 1929; DOROTHY CAMPBELL CULVER, *Bibliography of Crime and Criminal Justice* 1927–1931, New York, 1934.

behavior. The task of uncovering these variations and explaining them is big enough and important enough to engage the attention of research students indefinitely. Studies which assume that criminal behavior is a variable in time and place and seek to understand its diversities are likely to yield far greater scientific returns than studies which assume that criminal behavior is a constant and seek to discover its general uniformities and causes.

Perhaps the greatest influence retarding the progress of criminology has been the traditional emphasis on the study of the causes of crime. If the strangle hold which this traditional emphasis has on criminology could be released, enormous resources in research effort could be diverted to the realistic and comparative study of criminal behavior. The concept of causation is, after all, rather inapplicable to the study of social behavior.[1] It assumes a detectable relation between cause and effect, whereas a social phenomenon, such as criminal behavior, is so involved that it may even be a cause of some of the causes which are supposed to cause it. Causation is undoubtedly a more usable concept in the realm of the physical sciences, where isolation of factors can be controlled, but it certainly has its limitations of use in the field of the social sciences and in the sciences that study the behavior of human beings in social situations.

There is no reason to assume that criminal behavior must be reduced to causative factors before we can understand and control it. The host of studies that have attempted to uncover the causative factors of crime or criminal behavior has not met with signal success. Their greatest net gain has been in showing what contentions are not tenable rather than in determining what factors are provocative of criminal behavior and to what degree. Many of the contributions to the causation of crime have been limited by their faulty methods in arriving at conclusions and, in consequence, have made unwarranted contentions.

Studies of age, sex, nationality, class, areal, and regional variations in volume and type of crime comprise a vital part of criminology as a comparative science and, from a realistic point of view, are much more important for an understanding of delinquency and crime than are the rather dubious studies of causation. The possibilities of indicating, with some measure of certainty, the relation of crime to these variables are much greater than indicating that heredity, glandular dysfunction, mental deficiency, psychopathic personality traits, thwarted wishes, family disorganization, unwholesome recreation, unemployment, poverty, and so

[1] Dr. Tadeusz E. Kuczma in his recent work discards the use of causal relationship of factors in favor of "multifarious correlationships" of various components. See *Genetyczne Ujęcie Przestępstwa* (*The Genetic Approach to Crime*), pp. 381–384, Poznań, 1939.

on measurably cause crime, singly or in combination. From the traits and conditions that are associated with criminal behavior and the individuals who are offenders, categoric criminal risks can be computed which express the statistical chances of persons who fall into varying categories to become official offenders. One should expect the categoric risks to differ in time and place. However, an understanding of the differences is fundamental to a comparative criminology. While differential crime risks, after they have been validated for various categories of people, do not tell why persons become criminal, they do tell what persons become criminals. Instead of pointing to causality, they indicate contingency, which is a more than accidental association of visibly recorded traits and conditions with persons who become officially recorded as offenders. Moreover, valid studies of differential crime risks should lead the way to effective preventive measures, by specifying the levels and categories of individuals in any society who are the most likely to become official offenders.

Recent clues, particularly from the research of American sociologists, suggest that as persons continue in delinquency and crime they accumulate criminal technique, criminal attitudes, and a criminal philosophy of life, all of which climax in a professional criminal career. A professional criminal career, according to Sutherland, apparently has the same basic attributes that other professional careers possess. It has developed from association, experience, and training. Inquiries into the genesis and types of criminal careers are likewise in line with a comparative criminology, since the study of the careers of gangsters in Chicago can be compared with the study of professional criminals in China. The explained differences undoubtedly would reveal something more important about criminal behavior than has been revealed by the attempts to prove the potency of hereditary blemishes in the production of habitual offenders. Studies of the differential acquisition of the modes of thought, feeling, and action that characterize criminal careers can throw light on the process by which habitual and professional criminals generate, independent of the causes which may have produced the initial criminal behavior in each instance or case.

Opposed to the notion that criminal careers are usually normal acquisitions from exposure to criminal lore and criminal characters and provide their own motive power for continuation, is the notion that a criminal is an individual whose heredity, physique, mentality, and temperament are badly loaded against his making a normal adjustment to society and that criminal behavior is somehow abnormal behavior. There is no evidence that the modern European criminologists who stress the constitutional explanation of crime have any better or more certain proof for their contentions than Lombroso had, in spite of many ingenious

studies. The data in the studies stressing the constitutional determination of crime are, for the most part, unreliable and the conclusions therefrom are usually invalid. For example, the basis for the classification of concordant and discordant and of monozygotic and dizygotic in the criminal-twins study of Lange is not reliable. Even if it were, and assuming that Lange used several hundred instead of thirty cases, the conclusions from his study would not be valid, because he did not prove that nondelinquent identical twins were nondelinquent because of the absence of an inherited criminal tendency. Without a matched control group, it is impossible to demonstrate that inherited criminal tendency is really a characteristic trait of concordant monozygotic twins. Kretschmer's data on body build and associated temperaments are quite unreliable and his conclusions are unwarranted. Where endocrinologists, especially in Italy, have cited glandular imbalance or dysfunction as a causative factor in criminality, one must remember that the norms for what is normal glandular functioning have not been established. Even if they were, it has never occurred to endocrinologists to match nondelinquent persons of the same sex, age, weight, height, nationality, and economic class with the criminals, to discover whether glandular abnormalities are really more characteristic of offenders than of nonoffenders.

The conflict between those authorities who stress the situational factors in crime and those who stress the constitutional, *i.e.*, hereditary, mental, and physical, factors in crime shows no sign of subsiding. Positive proof is not available to either side, although one might say that, with the exception of the intelligence-factor studies as run by standard tests on delinquent and nondelinquent samples, the research students in the field of the situational factors have made more progress in eliminating unwarranted contentions and in attempting to validate conclusions than have the researchers in the field of the constitutional factors.

So much emphasis has been placed on the explanation of criminal behavior that some authorities believe that this area of knowledge is the primary content of criminology. The knowledge about the punishment and treatment of offenders, as well as about the prevention of crime, has been relegated to a minor place in the study of criminal behavior. The reason for this is probably to be found in the fact that, in the so-called modern scientific age, explanations of causes have held the spotlight of importance, on the assumption that once the causes are known the recipe for controlling a problem would be revealed. But there is no justification for magnifying the importance of the study of causative factors over and above the study of measures and programs for the control of criminal behavior. Consequently, from this point of view, contributors to prison administration and methods of handling prisoners, such as John Howard, Alexander Maconochie, and E. C. Wines, have been just as important

to the total study of criminal behavior as contributors to the theories of causation, such as Lombroso, Tarde, and Goring, have been. In some respects, the contributions of the former may even be considered more important than those of the latter, if we judge from the standpoint of residual gains to society.

Studies gauging the outcome of treatment and the operation of preventive measures have lagged considerably behind the contributions to knowledge and practice of prison methods and court handling. In fact, serious investigations of the results of treatment and prevention have just begun. So far they have largely concentrated in the United States. As studies more and more test and attempt to understand the workings of treatment and preventive measures, one should expect from the conclusions some of the most important contributions to the knowledge and control of criminal behavior. Delinquency and crime apparently constitute a type of human problem for which experimental programs of control can be conducted without first having to wait for thorough and definite knowledge about causation. It is highly probable that very significant insight into the nature and generating forces of delinquency and crime will be revealed from adequate testings of the operational effectiveness of treatment and preventive measures.

Future studies should be able to test with prognostic or predictive devices the limits and chances of certain categories or classes of offenders to improve with certain courses of treatment. The groundwork for this approach has already been laid and it is merely a matter of carrying forward the excellent beginnings made by Burgess, Glueck, Healy, and others in America and by Vervaeck, Viernstein, von Rohden, Schiedt, and others in Europe.

If a valid method of sorting out the improvable cases can be found, the investigation of the treatment possibilities with this group of offenders could take two courses. In the first place, attention could be focused on whether the so-called improvable cases are actually assisted by rehabilitative measures, by subjecting a sample of the prognosticated improvable cases and another similar sample, matched for age, sex, race, nationality, type of offense, to certain treatment measures and to the absence of these measures. Such an approach might test whether cases can "go it" alone with as good results as cases assisted by rehabilitative agencies. In the second place, studies could test the differential results obtained from handling of matched improvable cases by various methods of treatment, in order to discover what sorts of measures produce the best results.

Insight into and research on crime prevention have been much more retarded and sterile than have been the contributions to the knowledge of institutional handling and treatment measures. Prior to the World War, very few authorities had any comprehensive or workable ideas

about the prevention of delinquency and crime. Charles R. Henderson's proposals for prevention represent the one shining star, illuminating the paths to a many-sided approach to the problem. Even today very few criminologists and welfare workers have an adequate working conception of prevention. For the most part, their proposals and the actual programs they sponsor are either farfetched or confused with treatment.

The principles of prevention announced by the Gluecks represent the newer insights gained in America since Henderson's day. There is less lost motion in them, less hit-or-miss fumbling for a cover-all approach. If one compares the principles and programs covered by the Gluecks with the assumptions and proposals of Henderson's plan of prevention, one finds that several older contentions have been eliminated because more recent insight suggests that they contain very little preventive worth. Reference is made particularly to the fact that the Gluecks in their recent coverage on the potentially most significant measures and ideas of crime prevention do not mention the improvement of the quality of the population by eugenic or sterilization measures, the renovations of the economic and political order, or the instituting of protective and security measures through social legislation. The Gluecks' symposium on preventive measures gives priority, by implication of the very programs it covers, to the attempts to reach the behavior problems of children and the problems of child adjustment. There is considerable justification for focusing crime-preventive effort at the juvenile level and for suspecting that programs that aim to prevent delinquency among children contain the greatest potentiality.

It is not assumed that the reduction of preventive measures to those that curb delinquency in children represents the last word on the subject of crime prevention. In fact, effective preventive measures, no matter what level they reach, must be posited on the variables in the cultural base of any locality, region, or country. A program may be effective in one community or country and not in another locality, because of differences in culture. Efficacious preventive measures, therefore, should be considered relative rather than absolute. As relative in time and place, they become important to the study of criminal behavior as a comparative science.

Objective and scientific insight into the prevention of crime will not be gained until experiments are conducted which adequately gauge the operational effectiveness of local programs and give some understanding of the reasons why they are effective or ineffective. The difficulty heretofore has been that piecemeal programs have been introduced and imposed without due regard to whether they could effectively operate in the areas in which they were instituted. Little effort has been made to

test the effectiveness of operation and to validate the adequacy of methods prior to making sweeping claims for newly sponsored programs.

The Chicago Area project, conducted by Shaw, is a signal exception, since it has constituted from the beginning an effort to test the operational effectiveness of procedures before prior claims of efficacy were made. The efficacy has come out of the investigation of how the program works. The procedures used in this program undoubtedly can be adapted for use in other American urban areas of high delinquency rate. Whether or not the methods of the Chicago experiment can be effectively transplanted to urban situations in Poland, Sweden, Germany, Italy, and other localities with a cultural base varying greatly from the American urban situation remains for future research in crime and delinquency prevention to demonstrate.

Apart from the foregoing statement of what appear to the author to be the most important implications of the existing state of criminological knowledge, the purpose of the present treatise is to give critical understanding of the nature and variation of criminal behavior and the ways by which society has dealt or can deal with it. More specifically, the following topics are the principal ones covered in the succeeding chapters: the relation of criminal behavior to what is socially defined as criminal and to the agencies bringing violations to light; the contrast of societies of frequent and infrequent crime; the areal and regional variations in volume and type of offenses; variations in volume and type of crimes by age, sex, class, nationality, and race; the contrast of organized crime with ordinary violations and the main historic forms of organized crime; the process by which criminal careers are acquired; a critical review of the outstanding studies of the causes of crime; the nature and variation of punitive practices and the trends in punishment; the convergent development of and variations in court practices and institutional handling of offenders; the results of treatment programs in the light of the problem of relapse; and a review of the varying conceptions and programs of crime prevention from the standpoint of operationally effective preventive work.

While a truly comparative criminology will have to await much future research, the effort has been made throughout to infuse comparative data and a comparative point of view wherever possible. The present treatise of criminal behavior, therefore, is intended to represent as close an approximation to a genuine comparative criminology as the existing status of knowledge and information affords.

CHAPTER II

THE NATURE OF CRIMINAL BEHAVIOR

The most obvious and superficial way to define crime is to say that it is the violation of regulations of society. In advanced societies which have transcribed their rules of conduct into criminal law, crime is a violation of the code. Michael and Adler assert that "without a criminal code there would be no crime," since crime is that behavior "which is prohibited by the criminal code."[1] In the same legalistic vein of thought, Justin Miller contends that a crime is "the commission or omission of an act which the law forbids or commands under pain of punishment to be imposed by the state."[2] He hastens to add the following qualifications: in most cases the law requires that there must be unlawful intent; crimes are prohibited and punished to prevent injury to society, which injury may include "destruction or interference with government, human life, private property or other valued institutions or interests"; "no act is a crime, however wrong it may seem to the individual conscience," unless it is prohibited by law.[3]

In the unadvanced, *i.e.*, in the so-called primitive or preliterate, societies, which do not possess a written or legislated body of criminal law, crime is a violation of the precious customs—the mores. Violation of a folkway in any society, whether advanced or primitive, is merely an infraction of etiquette, manners, or the proper way to act. Such violations are *faux pas* and put a person in bad form. They make him a dunce or ill-mannered. Violations of the mores, those customs considered by any society as necessary to its welfare and perpetuation, are critical offenses. Such violations make the offending individual a malefactor, a culprit, a criminal.

The criminal code of an advanced society has accumulated the gradual redefinitions of older mores as well as the enactments of recent laws. Consequently, it includes the statutory enactments redefining ancient mores which were originally the unwritten laws and the new statutory laws which cover the current conditions and problems of society and place penalties on certain behavior in response to public opinion and

[1] MICHAEL, JEROME, and MORTIMER J. ADLER, *Crime, Law and Social Science*, pp. 5, 2, New York, 1933.

[2] *Handbook of Criminal Law*, p. 16, St. Paul, Minn., 1934.

[3] *Ibid.*, pp. 16–19.

necessity for protection. Thus, in the social heritage of American society, assaults, murder, rape, and theft have been outlawed from the beginning, while violations of pure-food laws, traffic rules, and compulsory school-attendance laws are offenses against recently enacted laws or ordinances that have been instituted to safeguard life, health, and morals in modern situations.

Relation of Crime to Conduct Norms

Kinberg makes the statement that "where there is no society there are no morals, no rules of conduct, and consequently no crimes."[1] The statement is intended to show that the rules of conduct in society define and make crime. Whether we are dealing with crime in an advanced society having a written criminal code or crime in an unadvanced society having unwritten mores, it is evident that criminal behavior is a violation of the rules of the social order. Every society, through the accumulation of its heritages and culture, possesses a body of social values that are conceived to be important to its welfare. The mores define the rules of conduct so as to protect and preserve these important values.

Recent additions to the criminal codes of modern societies are performing the same function that unwritten mores perform in a preliterate society. They are protecting sacred values, probably recently elevated by public opinion or by a dominant political faction to the status of sacred importance. "There is no surer way of ascertaining what kinds of behavior are generally regarded as immoral or anti-social by the people of any community than by reference to their criminal code, for in theory, at least, the criminal code embodies social judgments with respect to behavior."[2]

Sociologists and anthropologists would expect to find in most societies a "graded series" of conduct norms, ranging from the most disapproved to the most approved forms of conduct. Criminal behavior, according to the degrees of attributed seriousness, would occupy the position away from the center toward the one extreme of the scale of conduct norms. Sorokin neatly calls attention to the ethical gradations along a scale of values in the following manner.

> We have in one form or another, in practically all societies, a many-graded series, beginning with the "most criminal and most severely punished" through many classes of the less and less criminal, up through the undesirable but unpunished activities; then we come into the realm of "right" behavior, which, through many grades, ends at the highest peak of "superrighteousness." Thus, the highest crime (sin, sacrilege, etc.) and the highest superrighteousness (heroic, saintly,

[1] Kinberg, Olof, *Basic Problems of Criminology*, p. 13, Copenhagen, 1935.
[2] Michael and Adler, *op. cit.*, p. 2.

divine) are at the opposite poles between which many intermediary classes of conduct lie.[1]

Sellin, in attempting to escape the superficial legalistic definition of crime in terms of violation of laws, contends that crime should be considered as a violation of "a conduct norm which prohibits, and conversely enjoins, a specific type of person, as defined by his status in the normative group, from acting in a certain specified way in certain circumstances."[2] The conduct norm is "supported by sanctions which reflect the value attached to the norm by the normative group."[3] The strength of the sanction depends upon the attitude of the group toward the value in question. The inherent power of the conduct norm, depending upon the strength of the group's attitudes of disapproval and recoil, is called in Sellin's phraseology the "resistance potential."[4] The criminal law in a modern society essentially contains the conduct norms of the political group, but it should be recognized that kinship groups, religious groups, fraternal orders, labor organizations, clubs, and special associations in a socially differentiated society have conduct norms that impose sanctions in order to preserve certain recognized social values.

While criminologists have studied primarily the infractions of the criminal code of modern states and hence have traditionally narrowed their field of investigation to illegal behavior, crime, sociologically speaking, is fundamentally a violation of conduct norms which contain sanctions, no matter whether found in the criminal law of a modern state or merely in the working rules of special social groups. If this more fundamental definition of crime should be accepted as the basis of investigation, criminologists would be studying a much wider and more comparable behavior phenomenon than they are studying today. But so far the violations of conduct norms of social groups beyond those of the modern state are not usually or systematically reported and are not available for research.

The Question of Natural Crime

However plausible the idea may seem, there is no such thing as natural crime. Presumably, natural crimes would be those that uniformly appear in all societies, uninfluenced by custom or law. Garofalo, nineteenth century Italian criminologist, contended that there are crimes

[1] Sorokin, Pitirim A., *Social and Cultural Dynamics*, Vol. 2, p. 524, copyright, New York, 1937. Used by permission of American Book Company, publishers.

[2] Sellin, Thorsten, *Culture Conflict and Crime*, pp. 32–33, Social Science Research Council, Bulletin 41, New York, 1938.

[3] *Ibid.*, pp. 33–34.

[4] *Ibid.*, p. 34. Wilhelm Sauer also relates crime to the cultural values of society. See his *Kriminalsoziologie*, pp. 804–805, Berlin, 1933.

which exist "in a human society independently of the circumstances and exigencies of a given epoch or the particular views of the law-maker."[1] "Natural crimes," such as offenses against the person and against property, offend the elementary universal moral sentiments of pity and probity and cause instinctive resentment from members of society. According to Garofalo, pity is "repugnance to acts which produce physical pain," while probity is the "respect for all that belongs to others."[2]

Offenses against person and property in varying forms have a widespread, if not a complete, distribution throughout the world. But in many societies, both advanced and unadvanced, murder and theft are not important crimes and cause no great amount of resentment. In places where this is so, there are usually other offenses that cause greater indignation and recoil than do murder and theft. For example, violation of exogamous marriage rules. In the Homeric era of Ancient Greece, it is reported that homicide was dealt with by relatives. While the slaying of a parent or a guest was generally condemned in this era, there was no great amount of popular indignation against homicide.[3] "Other attacks upon the persons or property of individuals of the sort which are now very generally punished as crime seem uniformly to have been left to the individual to deal with as he might see fit with the aid of his family."[4] Even in current American society of the United States, rape and kidnaping cause more popular resentment and recoil than do homicide, theft, or burglary.

Variation of Crimes in Time and Place

Instead of a universal recoil to certain behavior, what we should expect to find is that man in various times and places recoils differently from various forms of behavior, according to particular schemes of values in various societies. Instead of expecting natural crimes, we should look for variations in what different groups of peoples consider crimes and for variations in the scale of severity of offenses. While it is obvious that crimes and the scale of severity of crimes vary with the scheme of values and sets of customs of societies, this fact comes out most glaringly in circumstances where a dominant people have attempted to impose their code on an unadvanced people and in cases of offenses among peoples who are strange and alien to us. A few illustrations may be cited.

Under British rule of India and in the imposition of a Western code of law on a mystic Oriental people, crimes of violence according to

[1] Garofalo, Raffaele, *Criminology*, p. 4, translated by Robert Wyness Millar, Boston, 1914.

[2] *Ibid.*, pp. 23, 31.

[3] Calhoun, George M., *The Growth of Criminal Law in Ancient Greece*, p. 17, University of California Press, Berkeley, Calif., 1927.

[4] *Ibid.*, p. 17.

Western conceptions often come to light as being directly related to lingering superstitious ideas and practices of natives.

A belief in spells and in sacrifice to obtain a material object is not an infrequent cause of crime. Recently a wealthy merchant was convicted of instigating and abetting the murder of a child to secure the recovery of his own son and heir who was sick. An older case of a child murdered was due to the accused being told that his wife would produce a healthy child if she were washed in the blood of a newly slain child; this is a fairly common belief as a cure for barrenness; and the same end may be achieved if a woman set fire to seven houses.

In Budaun (also in the United Provinces) a few years ago there was a half-witted member of a well-born family; his brothers, suspecting a certain leather worker of casting a spell over him, seized the unfortunate artizan, spread-eagled him and pegged him to the ground and proceeded to belabour him with big sticks, ordering him to remove the spell; between beatings, which were most deliberate, the idiot brother was watched to see if any effect was noticeable; none being observable, the beating went on till the leather worker was reduced to pulp.

Suicides are due at times to a superstitious belief in the efficacy of ordeals; at a waterfall near Badrinath (a place of pilgrimage in the Himalayas) the chastity of females is tested by standing at a certain distance from the main fall; if a shower reaches them, all is well; otherwise they are under a deep cloud of suspicion and suicides result.

In the belief that they could obtain possession of treasure, two Korans of the Madras Presidency set up an idol and instituted worship, chiefly by children whom they attracted by the distribution of fruit. When this was established, one child was taken at the close of the daily worship and murdered as a sacrifice to the deity in the hope of revelation of the treasure.[1]

In Northern Rhodesia, crime among the natives consists largely of offenses against the ordinances of the ruling group (the English), thefts against the outsiders (Europeans), and acts in conformity with the old native code but contrary to the code of the dominant group. Most of the serious offenses before the courts result from the clash of the latter conduct norms.

The very necessary and numerous local laws in reference to such matters as the brewing and sale of beer, sanitation, passes, curfew, cattle movement, etc., have forced those natives who live in urban places to adopt a standard of living which is foreign to them in many respects. It is therefore inevitable that numerous cases of contravention of these more or less minor laws occur and thus swell the annual crime record. [The native cannot be educated in a few years to realize the importance of sanitation. He cannot get the idea of why he should not stir after nine o'clock at night unless he has a pass from his employer, when he used to stir all night in his own tribal village.]

[1] ROE, H. R., "Superstition and Crime in India," *The Police Journal* (London) Vol. 3, pp. 1–4, 1930.

[The old native custom of not stealing from your own people still holds. It is easier to steal from Europeans since they are not their own kind and since their property is not treated as inviolate according to the old custom of tribal hospitability which made the stranger sacred.]

[It used to be legitimate for a man to kill another found in adultery with his wife and to kill his wife too.] It is difficult for such a man to realize that these things which his father did are not now permissable and that the crime of adultery must be dealt with in the proper courts. [In some tribes it was unlucky to give birth to twins and it was no crime if they disappeared soon after birth. The parents were satisfied.] A woman who is now unfortunate enough to bear twins must either put up with the disapproval of her fellows or commit a crime which may be punished with death or imprisonment. [A child who cuts his top teeth first is a horror, a thing to be destroyed, but this becomes murder.] The "murderer" is no criminal in the eyes of his fellows, and indeed has done the right thing and is therefore shielded and protected by his kinsmen. [Crimes of violence against the European whites are rare. Assaults on white women are rare, although "peeping toms" are caught occasionally.][1]

A final example of the variation in conduct norms in time and place that are behind the definitions of criminal behavior and the cultural clashes and changes that make these norms visible is drawn from a part of the Soviet Union which has a prevalent Mohammedan population.

In this locality homosexuality had a much different meaning than in Europe generally. It was an ancient phenomenon, produced for the most part by the sharp separation of the sexes. While homosexuality was tabooed by the ancient code, male prostitution was prevalent, being subscribed to by low as well as high classes (including the noble and priestly classes). There were *batschabasch*, who were professional teachers of the art. They made contracts with the parents of young boys, and took the boys to festivals and banquets where in female attire and false plaits they danced and sang. And the guests used them. The *batscha* (the boy prostitutes) were usually drawn from the poorer classes. The Soviet Union attempted to break up this practice. But it is disappearing with the breakup of the old order of life, especially with the emancipation of women and the development of life in public. These changes have had more effect on the elimination of male prostitution than the force of the old Mohammedan code or the new code of the Union of Socialist Soviet Republics.[2]

Evolution of Crime Unverifiable

It is incidental to this argument that in many ancient and unadvanced societies murder and theft frequently partake more of the nature of

[1] Stephenson, Lieut.-Col. A., "Crime in Northern Rhodesia," *The Police Journal* (London), Vol. 3, pp. 519–524, 1930. Brackets contain condensations and summaries.

[2] Anossow, J. J., "Die Homosexualität im sowjetischen Recht," *Monatsschrift für Kriminalpsychologie und Strafrechtsreform*, Vol. 23, pp. 583–586, 1932. Summarized by the author.

private injuries against the individual or kin group than offenses against the tribe or state. No claims by inference are made that, in the evolution of the state, crimes grow out of torts, because such a generalization could not be supported. In most unadvanced societies there are certain offenses to which the tribe through its instrumentalities pays attention and certain offenses to which individuals, families, and special social groups pay attention. There is usually no indication which set of offenses is the older. Both sets exist side by side, just as one often finds in these same tribes communal and individual property rules existing side by side in pretty good harmony, without knowing which is the older or that the latter necessarily grew out of the former. The fact that many advanced societies today taboo popular justice or individuals' taking the law into their own hands merely shows the strength of the politicality of the modern state rather than the emergence of crime from torts. Furthermore, in modern society are to be found many offenses against the conduct norms of kin groups, fraternal orders, churches, schools, labor organizations, and so forth, *i.e.*, offenses to which the state pays little attention and in which it does not interfere. These offenses, too, exist side by side with the offenses against the state, but no one would claim that they are torts or that they necessarily preceded crimes against the politicality.

When the theory of evolution was applied to social forms and institutions, attempts were made to indicate the evolutionary order of the appearance of crime. Thus Oppenheimer contended that the sequence in the evolution of crime was as follows: treason, witchcraft, sacrilege and other offenses against religion, incest and other sexual offenses, poisoning and allied offenses, and breaches of hunting rules.[1] And Steinmetz claimed that the evolutionary order was witchcraft, incest, treason, sacrilege, and miscellaneous (mostly offenses against sex morality, poisoning, breaches of hunting rules, etc.).[2]

Such formulations are mere armchair exercises in speculation and cannot be supported or substantiated by history or ethnological field studies. Stages in the evolution of crimes cannot be charted for all peoples.

Definitions of Crime Related to Change

While it is impossible to deal with the evolution of crime for mankind generally, it is possible to study changes and trends in crime in individual societies, where the records or data are available. And these changes usually reflect changes in social conditions rather than any orderly sequence of development or uniform course of evolution. Kinberg maintains that "a certain type of action, caused by the development of

[1] *The Rationale of Punishment*, p. 91, London, 1913; cited in Maurice Parmelee, *Criminology*, p. 19, New York, 1919.

[2] Cited in Parmelee, *op. cit.*, p. 19.

society in one direction or another (technical, medical, political, etc.), has not been foreseen by the penal law, but proves so harmful as to require suppression." Hence, we acquire "new crimes." Conversely, Kinberg calls attention to the fact that crimes "age, become antiquated, and die; the type of action they represent has ceased to exist or to be considered socially harmful, the emotional reaction of the public to the crime has waned, and the penal reaction gradually becomes obsolete and automatically disappears."[1]

In a study of the additions to the criminal codes of 44 states and 3 territories of the United States during the years 1897 and 1898, Barrows arrived at the conclusion that "the bulk of our statutes are offenses which arise from conditions peculiar to our civilization."[2] Of particular interest to him was the relation of criminal behavior to inventions, which constitute just one principal source of social alteration.

> Granted that Franklin may have foreseen that it would be a sin to steal electricity, could he have foreseen that it would be a sin punishable by fine or imprisonment to give it away? [And yet in Nebraska] telephone and electric-light companies are forbidden to give free or reduced rates to any city or village officials, and the officers or agents of a telephone company bestowing their favors in this way are liable to a fine of $100 to $500 and to imprisonment of from thirty days to six months.
>
> Sooner or later, new inventions are engraved in the criminal code. A host of modern inventions or manufactured articles having a market value constitute a new opportunity for the thief. There are a great number of modern crimes which could not have been committed in ancient days because the instruments for their perpetration did not exist. They are the outcome of modern civilization and they require new legislation.[3]

Sutherland and Gehlke made an indicative survey of the principal trends in the criminal laws of the United States between 1900 and 1930. Some of their findings are as follows:

> The number of sections in the penal code of the federal government increased from 264 in 1900 to 383 in 1930 or 45 per cent. The number of sections in the penal code of fourteen states grew from 7,156 in 1900 to 9,609 in 1930, an increase of 34 per cent.
>
> Many of the criminal laws which are enacted make no significant change in the code of behavior but are amendments concerned with terminology, machinery of enforcement, and penalties. The percentage of new criminal laws has been decreasing, while the percentage of amendments and of repeals has been increasing.
>
> In general the laws regarding felonies are relatively less numerous in recent legislation and laws regarding health, safety and other general interests are more

[1] KINBERG, *op. cit.*, p. 17.

[2] BARROWS, SAMUEL J., *New Legislation concerning Crimes, Misdemeanors, and Penalties*, p. xv, Government Printing Office, Washington, D. C., 1900.

[3] *Ibid.*, pp. xvi–xvii.

numerous. Criminal laws seem to be, relatively, concerned with a different level of behavior today than a generation ago.

In the newer legislation of the states the principal objectives seem to be morals (sex offenses, intoxicating liquors and gambling), prevention of fraudulent or unfair business practices, protection of bodily health and safety and conservation of natural resources (principally fish and game laws). Occupational regulations form a large part of the criminal legislation of municipalities.

The growing regulation of conduct as illustrated in criminal laws is not a unique phenomenon in modern American society. Some private associations show an even more pronounced regulatory trend. The tendency to regulate by criminal law seems to be somewhat related to the increase of population and the growth of cities. This general association between the increase in criminal law and the increase in population and in urbanization indicates that the increase in criminal laws may be a reaction to the increasing complexity of life.[1]

Sellin has called attention to the fact that during the recent depression era new definitions of offenses and new types of laws were established—new tax laws, banking laws, social insurance laws, laws creating new administrative agencies and commissions—all of which contained potential violations.[2]

The material cited from the recent changes in definitions of crime may lead us to think that fluctuations in definitions of criminal behavior are mainly a modern phenomenon. Such is not the case, since changes in the definitions of crime have taken place in all eras. Sorokin performed the monumental task of examining the criminal codes of five European countries (Germany, Austria, France, Italy, and Russia) to count and note the changes during historic periods from the pre-Christian era on through the Middle Ages and early modern eras up through the postwar era. Some of his principal findings are as follows: (*a*) exclusions and inclusions of activity from and into the criminal codes fluctuated in all periods; (*b*) the most drastic and the largest number of exclusions from the criminal codes was made during revolutionary epochs such as the French Revolution and the postwar revolutions in Russia, Italy, and Germany; (*c*) proportionally to total number of crimes covered by the codes, the greatest amount of innovations (inclusions of new crimes) took place during the Middle Ages, *i.e.*, the Christian era to the fifteenth century, and in the early modern period, *i.e.*, fifteenth to seventeenth centuries, owing probably to the effort of the permeating Christian ideology to "uplift the conduct of man" according to the accumulating concepts of sin and due to the marked social transitions and alterations of the Renaissance

[1] SUTHERLAND, EDWIN H., and C. E. GEHLKE, "Crime and Punishment," Chap. 22 in *Recent Social Trends in the United States*, pp. 1116–1120, McGraw-Hill Book Company, Inc., New York, 1933.

[2] SELLIN, THORSTEN, *Research Memorandum on Crime in the Depression*, pp. 6–7, Social Science Research Council, New York, 1937.

and commercial eras, which necessitated action and protection against new dangers; (*d*) the early and final part of the nineteenth century and the twentieth century showed the highest proportion of enlarged content of crimes among those retained in the codes; (*e*) a process of idealization of conduct, due to the Christianization of the "barbaric" peoples of Europe, was reflected in the additions to the criminal codes of the Middle Ages, but an opposite process of secularization, *i.e.*, the application of utilitarian principles to conduct norms, was reflected in the codes of the modern era, continuing through the postwar Russian Revolution but showing a tendency to return to idealization in Nazi and Fascist codes of the postwar era; (*f*) criminal laws enacted in the early modern period from the decline of feudalism to the eighteenth century displayed the greatest humanitarian objectives of protecting the weaker against the oppression of the stronger classes of society; (*g*) the democratic principles (limitation of state control) were most visibly reflected in the criminal codes during the revolutionary last part of the eighteenth century and last half of the nineteenth century; (*h*) the criminal laws of the postwar period display a sharp trend toward reflecting the totalitarian ideologies (interference of the state in control and regulation of conduct).[1]

Sorokin found from his intensive study of the changes in criminal codes that "the criminal law described practically the same curve which has been followed by all the main compartments of culture," which means that "it is an unseparable part of an integrated culture" so that when the latter experiences transformations the criminal law will likewise reflect these transformations.[2]

Relation of Crime to Dominating Groups

The classical essayist on penology, Cesare Beccaria, who published about the time of the Revolution of the American Colonies, reckoned with the fact of changes in crime in historic societies. He contended that criminal laws and ideas of criminality changed through the ages not so much in direct relation to altered social conditions as in proportion to the notions and activities of lawgivers.

> Whoever reads, with a philosophic eye, the history of nations, and their laws, will generally find, that the ideas of virtue and vice, of a good or a bad citizen, change with the revolution of ages; not in proportion to the alteration of circumstances, and consequently conformable to the common good; but in proportion to the passions and errors by which different law-givers were successively influenced.[3]

[1] Sorokin, *op. cit.*, pp. 566–575, 542–565.

[2] *Ibid.*, p. 572.

[3] Beccaria, Cesare Bonsbana, *An Essay on Crimes and Punishment* (with a commentary by M. de Voltaire), p. 34, new ed. corrected, Edinburgh, 1778.

Beccaria's statement introduces another important factor that determines the coverage on crime. Restated in our terms, the proposition may be put as follows: the instrumental personalities or cliques in control of state affairs, whether under kingly despotisms, dictatorships, or democracies, have been able to outlaw those activities that they considered to be subversive to their interests. Parmelee contended that "the nature of the acts which are criminal at any time and place will be determined in large part by the nature of the political organization." For example, under a monarchy the penal law will safeguard the interests of the ruling family, while under an oligarchy it protects the privileges of the dominant class.[1] Sellin has put the matter in this way: "The conduct which the state denotes as criminal is, of course, that deemed injurious to society, or in the last analysis, to those who wield the political power within that society and therefore control the legislative, judicial, and executive functions which are the external manifestations of authority."[2]

It is to be expected, therefore, that many additions to and alterations in criminal laws grow out of political policy and expediency, and reflect the will and values imposed on the people by persons or factions in control of government. In a democracy such as the United States, the criminal codes show frequent instances of protection of special vested and class interests. The policy during the "new deal" administration has been to outlaw privileges of rugged individualism and large business corporations in favor of underprivileged minorities. Likewise, a host of new political and special crimes have been created in the totalitarian states of Germany, Italy, and Russia as a result of a policy of perpetuation of the controlling leaders.

Definitions of Offenses Precede Violations

While the nature of criminal acts is primarily dependent upon the rules and laws of society which set the definitions of offenses and fix the penalties, to what extent is it dependent upon aberrant behavior of individuals? There are several questions bound up with this larger one, some of which are very academic indeed. Only two of them will be dealt with here. The first may be put as follows: Does not man offend before society must protect itself by rules and penalties? In other words, does the offending or aberrant activity antedate the regulations defining and penalizing the activity?

This is a typical "hen and the egg" question—which comes first? In many instances injurious and harmful behavior does call forth social

[1] Parmelee, *op. cit.*, p. 92.

[2] Sellin, Thorsten, *Research Memorandum on Crime in the Depression*, p. 3, Social Science Research Council, New York, 1937.

and legal measures to suppress it. But in many instances also behavior has been outlawed, *i.e.*, defined as criminal, without any obvious need of protection against injurious and harmful activity. The regulatory and penalizing processes of society are rather fortuitous and follow no one definite course of action.

No matter whether activity is recognized or not recognized to have a detrimental effect on the welfare of society prior to its being outlawed, the point is that definition of an offense would have to precede in order for it to be an offense. This would be true unless one visualizes a society in which members chronically and consistently react to one another's behavior in instinctively offensive and indignant ways and unless one assumes that all present conduct norms that contain sanctions somehow have grown out of past instinctive indignations and repugnances.

The recoil against behavior and activity in others is mainly determined by the already existing set of conduct norms and values of a society. Strange, novel, and unfamiliar behavior in others may cause recoil according to already existing norms of behavior. But activity does not have to be novel, as, for example, the introduction of tobacco smoking in England, in order for it to be outlawed. Old accustomed activities and practices can be tabooed and declared criminal just as well as new departures in behavior, *e.g.*, "moonshining" in the United States.

In modern society behavior may become defined as criminal as a result of reform movements (organized indignations), political expediency, hazards to safety and health, and imposition of standards of conduct on the masses by dominant groups, all of which are by no means rational and scientifically justifiable. The element of superstitious dread may be behind many of the rules defining offenses in primitive societies, although this factor has not been altogether inactive in modern societies.

Kinberg would make one possible exception to this point of view. He has stated that when crimes are exceptional in frequency and form, "there is reason to ask whether the individuals who commit these exceptional acts are not in themselves psychologically exceptional."[1] Such crimes, he would contend, are psychopathological phenomena which force society into dealing with them as such. But even if we admit this exception, the overwhelming majority of crimes have not been outlawed because of the psychopathic nature of the behavior involved. Kinberg's point leads to the second question we have undertaken to discuss.

The second question may be put as follows: Is behavior defined as criminal because there are individuals who inherently have difficulty in conforming to the rules of a social order? There is no indication that the behavior that gets defined as criminal in any society is so defined because society realizes it is provoked by defective persons who cannot

[1] KINBERG, *op. cit.*, p. 18.

conform to the rules. While a few psychopathic, insane, and mentally deficient individuals do sometimes violate the code, this does not mean that the code was made for them and because of them.

By and large, the overwhelming majority of violators should be expected to be constitutionally and mentally normal. Even the insane, the feeble-minded, and the psychopathic are not predestined to violate rules, since the most of them do not actually run afoul of the regulations of society. Consequently, it is hazardous to assume that there is a special order of human being who is prone to be a violator and that the crimes have been made in response to his injurious, uncontrollable, and aberrant behavior.

Volume of Crime Influenced by Reporting and Concealment

In a complex society, where no one can see or hear all evil, the volume of crime recorded depends upon criminal deeds' coming to light and being reported officially. In spite of the magnification of crime-ferreting instrumentalities, it is conceded that a considerable amount of crime remains unrecorded, unknown, and hidden. Consequently, the amount of crime not only varies with varying social orders that have somewhat different definition of offenses and somewhat different confronting social conditions, but it also varies with the sociolegal machinery by which offenses are or are not brought to the surface officially.

Looking at the matter from the standpoint of modern police activity, the Committee on Uniform Crime Reporting listed four reasons for concealment of offenses: (1) "the offense may be known only to the person committing it, (2) relatives or friends of the offender may not report it, (3) fear of annoyance or publicity prevents others from reporting, and (4) some people are too ignorant or indifferent to report."[1]

Sellin lists the following reasons for the nonreporting of offenses: (1) offenses may be of a private nature, *e.g.*, sex, blackmail, abortion, etc.; (2) the injured party may not wish the offense discovered; (3) the inconveniences of making a complaint and testifying in court are too great; (4) public opinion is not favorable to enforcement of certain laws, *e.g.*, gambling, lotteries; (5) offenses of a nature hardly reportable by offenders themselves become known only when arrests are made (carrying concealed weapons, traffic violations, disorderly conduct, vagrancy); (6) in times of crises, changes in public sentiment cause an increased or decreased "reportability" (juvenile delinquency, vagrancy, begging, etc.).[2]

[1] *Uniform Crime Reporting; A Complete Manual for Police*, p. 22, Committee on Uniform Crime Records, International Association of Chiefs of Police, revised, New York, 1929.

[2] Sellin, *op. cit.*, pp. 69–70.

In seeking the reasons for the concealment and nonreporting of offenses, one should not overlook certain categories of offenders themselves that often cause an offense to be overlooked without further ado and without filing complaint. Petty thieving by Negroes from white masters in the southern United States is generally overlooked. In Western civilization, women and children caught in the act have considerable chance of escaping official referral. Many offenses of socially prominent persons and of persons with political influence are hushed without official action. This phenomenon is related to differential crime risks as well as differential justice at the hands of police and courts.

Crimes Known to the Police

The type of offense itself has some bearing on whether the crime comes to official light. It has been found that the following crimes are not consistently reported to the police and do not consistently become known, some to a greater and others to a lesser degree: assaults (not aggravated), forgery and counterfeiting, embezzlement and fraud, carrying and possessing weapons, sex offenses (not rape), offenses against the family and children, drug laws, drunkenness, disorderly conduct and vagrancy, gambling, traffic and motor-vehicle laws, arson, buying and receiving stolen goods, and blackmail.[1] On the other hand, it was found that in America only seven types of offenses consistently become known to the police. They are felonious homicide, rape, robbery, aggravated assault, burglary (breaking or entering), larceny (theft), and auto theft.[2]

These seven types of offenses have been singled out by police experts as the ones which uniformly in America have the greatest chance of becoming known to the police through the operation of the sociolegal machinery. They are brought to the attention of the police by means of complaints from citizens, reports of police officers, arrests of offenders caught in the act of crime, and by referrals to or from prosecuting attorneys, sheriffs, judges, and other officials.[3]

Crime Investigation and Identification

Implementation of crime investigation and criminal identification since Bertillon's day has gone far. Some of the most familiar scientific aids to identification include photography, fingerprinting, document examination, reproduction of footprints, toolmarks, and tire tracks, microscopic and chemical analysis, firearms identification, and so

[1] *Uniform Crime Reporting, op. cit.*, pp. 180–182.
[2] *Ibid.*, pp. 24–27.
[3] *Ibid.*, p. 21.

forth.[1] One German expert even reports on identification of gimlet holes and saw marks.[2] Lie-detecting equipment is also gaining in use (cardio-pneumo-psychographs).[3]

Police activity has attempted to keep pace with modern mechanical developments also through motorization of police squads and radio equipment, both of which have enormously increased police efficiency in a machine age. However, the most modern police methods are mainly limited to the police departments of large urban centers. In advanced countries, except where a large force of special agents has been established by the central government, policing in rural areas has lagged behind the exigencies of modern living and the mobility of criminals. Efforts are being made to increase the efficiency of rural crime coverage, both in the number and quality of policing personnel and in the implementation of police services.[4] In the United States the development of state police among other functions has given policing coverage to those areas outside municipal police jurisdiction, which heretofore had no adequate methods of tracing criminals in an era of increased mobility.[5] The much-needed services of a Federal crime-ferreting agency in the United States has been realized in the recent development of the Federal Bureau of Investigation.[6] In fact, the G-men are already well enough established in the public mind to become the theme of drama, cinemas, and fiction. The fingerprinting clearance service which the United States Department of Justice provides for penal institutions and police departments has

[1] The material on the development of police science is so voluminous that only a few important sources can be mentioned here: HANS GROSS, *Criminal Investigation*, London and Toronto, 1934; AUGUST VOLLMER, *The Police and Modern Society*, Berkeley, Calif., 1936; SARAH GREER, *A Bibliography of Police Administration and Police Science*, Institute of Police Administration and Police Science, New York, 1936; JOHN EDGAR HOOVER, *Scientific Methods of Crime Detection in the Judicial Process*, Federal Bureau of Investigation, U. S. Department of Justice, Washington, 1936; J. EDGAR HOOVER, "Criminal Identification," *Annals of American Academy of Political and Social Science*, Vol. 146, pp. 205–213, November, 1929; F. J. CRAWLEY, "The Technique of Investigation of the English Detective," *ibid.*, pp. 219–222; ROBERT HEINDL, "The Technique of Criminal Investigation in Germany," *ibid.*, pp. 223–236; HARRY SÖDERMANN, "Science and Criminal Investigation," *ibid.*, pp. 237–248.

[2] BELLAVIĆ, HANNS, "Identifikation von Borhrspuren," *Archiv für Kriminologie*, Vol. 102, pp. 97–113, 1938; "Identifikation von Sägespuren," *Archiv für Kriminologie*, Vol. 94, pp. 139–145, 1934.

[3] LARSON, JOHN A., *Lying and Its Detection*, pp. 257–404, Chicago, 1932, for the demonstration of the methods and their application to various kinds of criminal cases.

[4] SMITH, BRUCE, *Rural Crime Control*, New York, 1933.

[5] ADAMS, LYNN G., "The State Police," *Annals of American Academy of Political and Social Science*, Vol. 146, p. 34, November, 1929.

[6] HOOVER, JOHN EDGAR, "The Work and Functions of the Division of Investigation," U. S. Department of Justice, Washington, July 20, 1934.

enormously increased the speed and efficiency of local identification work.

The Status of Ordinary Offenders

While officers attached to courts, special detective bureaus, and secret agents make investigations and often uncover crimes not known to the police, it is obvious that the principal crime-discovering agencies in the sociolegal order of modern countries reside in the people and the ordinary police. Whatever hampers or enhances official discovery of violations affects the volume of reported crime in any community or political unit. In no facetious sense whatsoever, the offender in modern society is one who is caught and acted upon officially by police and courts. The notion that the ordinary offender is mainly a person whose violation of law has brought him to official attention is not new. It was sidetracked by the development of biology, physical anthropology, psychiatry, and psychology in their attempts to find a special criminal type or to establish special traits of body and mind in offenders. A generation ago, André contended that "a criminal is a person, morally no worse that the average man, who has done a deed which society holds to be a breach of its laws, and who in consequence of mischance, has been convicted on evidence of having done it."[1] This conception is gaining currency for the main run of offenders, particularly the first offenders, while there is considerable controversy about possible inherent or acquired peculiarities of habitual offenders.

The Question of a Crime Index

Because of the vicissitudes of crime reporting and of policies and practices of arrests, charges, indictments, and court convictions, criminologists have seriously addressed themselves to the question as to what sort and source of criminal statistics can be used to show fluctuations in the volume of crime over a period of years and comparisons between countries and communities. Criminological research has been greatly hampered by the lack of a uniform, consistent, and reliable index to crime. Criminologists in their studies have had to rely on statistics of dubious worth, especially for charting trends and making comparisons in time and place.

In a special study of institutional and social-agency records of a sample of 507 Chicago-born inmates in Illinois penal and reformatory institutions, Sutherland and Van Vechten attempted to measure the consistency with which social information on the various records had been recorded. In 34 per cent of the cases, the records were found to be inconsistent. The percentage of inconsistency varied greatly by various

[1] André, George G., *Our Criminal Fellow Citizens*, p. 16, London, 1908.

items of social information: race 0.8, nativity 10.3, marital status 17.3, name 39.3, address 41.7, age 60.8, and occupation 69.7. The percentage of inconsistency was 33.8 for white cases in the sample; 36.2 for Negro cases. Sutherland and Van Vechten roughly estimated that about two-thirds of the inconsistencies in the records could be eliminated by "greater care in recording and by standardization of definitions and classifications."[1]

A study of the ratios of the actual police clearances (*i.e.*, when an offender is apprehended and turned over to prosecution) to the crimes known to the police in 47 cities of Ohio during 1931 revealed the following percentage record of clearances by types of offenses: murder and nonnegligent manslaughter, 81.8; manslaughter by negligence, 79.7; rape, 84; robbery, 34.3; aggravated assault, 62.7; burglary, 25.2; larceny $50 and over, 20.7; larceny under $50, 19.9; auto theft, 14.1.[2] Apparently, offenders against property run smaller risk of getting caught than do offenders against the person—for reasons already rehearsed in the discussion of the factors that bring crime to light.

It is generally agreed that reported crime represents only a fraction of the total amount of crime and that arrests, indictments, and convictions constitute a progressively decreasing fraction of the total volume of offenses. Sellin makes the very pertinent observation that the "value of a crime rate for index purposes decreases as the distance from the crime itself in terms of procedure increases." He advocates the use of crimes known to the police as the best source of statistics for making comparisons in time and place—not all crimes known to the police but those crimes which are consistently and constantly reported to the police.[3] Such crimes presumably bear a constant ratio to the total volume of crime and are less likely to reflect changes and policies in the sociolegal order.

Elsewhere, Sellin has stated that "recorded data, suitable for the construction of crime indexes, can be furnished only by those offenses which are considered greatly injurious to the state, are of a public nature, and induce the fullest possible cooperation with the law enforcement agencies on the part of the victim or those interested in him."[4]

[1] SUTHERLAND, EDWIN H., and C. C. VAN VECHTEN, JR., "The Reliability of Criminal Statistics," *Journal of Criminal Law and Criminology*, Vol. 25, pp. 11, 14, 15, 16, 19, 1934–1935.

[2] BETTMAN, ALFRED, L. C. MARSHALL, W. C. JAMISON, and R. E. MILES, *Ohio Criminal Statistics* 1931, pp. 15–17, Baltimore, 1932.

[3] SELLIN, THORSTEN, "The Basis of a Crime Index," *Journal of Criminal Law and Criminology*, Vol. 22, pp. 346, 339, 1931–1932; see also SELLIN, *Research Memorandum on Crime in the Depression, op. cit.*, Chap. 4, "The Index Question."

[4] *Research Memorandum on Crime in the Depression, op. cit.*, p. 70.

Statistics based on arrests, indictments, and convictions are definitely affected by public sentiment, policies, and special laws, and therefore, are more apt to reflect fluctuations in law-enforcement and sociolegal policies than basic crime-producing conditions or factors.[1]

Statistics based on arrests, convictions, or admissions to penal institutions are not usable as measures of volume of crime but are usable for measures of trends and fluctuations in law enforcement and penal policies. Such statistics, since they are reported mainly on a case basis, are also useful in analyzing important background information and personal traits of offenders who get into the clutches of the law, such as age, race, sex, nativity, recidivism, marital condition, occupation, place of residence, and so forth. To what extent these items are reliably and consistently reported is controversial, depending upon facilities of identification and verification in collecting this information.

Conclusion

While crime is usually considered to be a violation of criminal code, it is related more fundamentally to violations of conduct norms and the scheme of values of society. The definitions of what constitutes offenses will vary in time and place according to the customs and values of various societies. There is no evidence that there are natural crimes, which are independent of the custom, values, and exigencies of societies. While the definitions of offenses are subject to changing conditions of life and may show trends of direction in coverage of behavior, there is no discernible evolutionary order of appearance of crimes. The definitions of crime have outlawed and penalized behavior that is considered socially and politically injurious, subversive, and exigent. They appear not to have been induced, or seldom to have been induced, by aberrant behavior of individuals. Protection of the rights and status of dominant groups in a political order appears to be an important cause for the definition of many crimes. In a modern society the amount of crime depends upon the forces holding it from or bringing it to light. Because of the vicissitudes of crime reporting, a reliable index of volume of crime is difficult to obtain, greatly hampering comparisons in time and place.

[1] Warner, Sam Bass, "Crimes Known to the Police—An Index of Crime?," *Harvard Law Review*, Vol. 45, pp. 307–334, 1931–1932.

CHAPTER III

SOCIAL DISORGANIZATION AND CRIME

While crime varies according to the legal and social definitions of behavior, it also varies according to the state of integration and disorganization in any society. Sociologists have not as yet developed quantitative devices to measure the state of integration in any society, although it might not be too prophetic to say that, in view of many sociometric developments, such measuring rods are not beyond the range of possibility in the near future. The students of society have attempted to use certain indexes of disorganization both qualitative and quantitative. Indexes of the latter sort have been mainly indexes of mobility and change, and rates of this and that social problem, some of which are of doubtful significance. But here again sociologists have not as yet developed a simple single index of the total degree of disorganization for any community or society. Consequently, the relation of crime to the status of social integration and disorganization must be indicated largely by qualitative analysis.

Societies of Frequent and Infrequent Crime

Obviously, there are societies of frequent and infrequent violations, *i.e.*, societies in which violation of behavior codes seldom occur and societies in which violation of law, custom, and rules are more prevalent. It is necessary, therefore, to indicate the characteristics of societies, communities, or situations that show polarity in regard to relative absence and prevalence of infractions.

Societies of infrequent crime appear to be societies of relative isolation, with little mobility of population, little change, homogeneity of population in race and culture, little institutional disorganization, minimum differentiation in classes and social groupings, a single system of customary rules or a single code of customs, and a high degree of control over their members. On the other hand, societies of frequent violation are those that seem to have large-scale outside contacts, to manifest great mobility, flux, and change, to contain a heterogeneous population in race and culture as well as considerable differentiation in class levels and specialized social groups, to present several systems of norms for conduct as manifest by the clash of the rules of the dominant legal and moral order with the behavior standards of many subdominant groups,

and to exercise at best a limited social control over the behavior of individuals.

In most normal primitive societies and peasant communities, the incidence of violation of law and custom appears to be low. And crime, as such, is infrequent. There is the maximum of social integration, *i.e.*, there are few loose ends, activities, and groups uncoordinated and uncorrelated with the total life of the society. There is a minimum of mobility, change, and disorganization. There is no clash or confusion in behavior codes.

Absence of Crime among Indians of Labrador

The Montagnais-Naskapi of the Labrador peninsula illustrate for us an example of the intimate, face-to-face type of society. We have some of these types of cooperative primitive society in Australia, South Africa and South America. They are primary in pattern, since, through the intimate association of individuals forming them, the social fusion of kin results in producing a community whole within which there is a tendency toward harmony and the most thorough-going cooperation. Strife is scarcely present; violence strenuously avoided; competition even courteously disdained. These, they think, lead to ridicule.

Crime, in the sense in which we define it, is something that they do not themselves recognize. The social and emotional reactions toward murder among the Montagnais-Naskapi would be a difficult and uncertain matter for me to discuss, in view of the fact that since the beginning of my contact with them, I have not heard of a case of deliberate manslaughter. Naturally the native population falls into two groups; one comprising those who pass all but several weeks of the year in the forest; the other, those who are much in contact with the lumberjacks, traders and itinerant whites. The latter are almost universally profligate; the former, from what little we can experience in their solitary life are shy and inhibited. The children are not given to petty mischief to that degree which we observe among white children.

The absence of theft in native relationships is generally commented upon as a characteristic outlined in sharp constrast to the propensities of the Canadians. In particular, the institution of the "cache" or storage scaffold is stressed as one that beyond any doubt tests the question of regard for the property of others. The inviolability of the "cache" is an outstanding fact in the narratives of the north. Never a thought is given to making these storage vaults safe from the hands of man. Never, in the annals of the country, have the Indians been known to open these stores, when belonging to others; to remove their contents, except in cases of accident or imminent famine. The taking of food or property in this case is considered as a loan, and instances are on record, in which, at a later time, often at a trading-post a great distance away, restitution has been made to owner, representing many times over the worth of the appropriated goods. When, indeed, "caches" have been looted, the first natives to discover the act usually look about for traces of carnivorous animals or white men.

Brigandage here is quite unthinkable, even as a supposition. Instances of violence in the forests, prompted by motives of robbery, are not known except where whites are concerned. Personally, I can testify to never having had a single object lifted from my property or equipment. It may be said of young and old that if goods or personal belongings are left in view they are absolutely safe from disturbance as long as there is something about to indicate that they have an owner.[1]

The Crime Situation among the Trobriand Islanders

Basing his observations on the actual working of customs and practices of the native Trobriand Islanders (Melanesians), Malinowski gives considerable evidence for the fact that violations of customs sometimes occur in this primitive society. He found that the natives stretched and broke laws whenever they could without loss of prestige or of wealth. He even discovered that breaches of perhaps the most sacred customs (exogamy) were by no means rare, and that most of his native informants actually admitted and boasted about having committed violation of the rule of exogamy and of adultery. In fact, he contended that a "well-established system of evasion" of customary rules existed as a part of an almost necessary normal elasticity in social life or release from social rigidity in this primitive group. On the other hand, murder and theft were found to have little place in the scheme of things. In his residence among the natives Malinowski knew of only two cases. Theft of food was rare because of the extreme humiliation a person would live under if known to have stolen food. The other native form of stealing was theft of personal objects, which was also rare because the objects are earmarked. Penalties for either type of theft consisted of shame and ridicule.[2]

The purpose of Malinowski's study was not merely to show the nature and occurrence of crime in primitive groups but also to explode the theory that primitive man possesses a blind, automatic, spontaneous submission to custom. Customs among the native Melanesians were found to be binding, but they were binding, because of visible social and practical sanctions and not because of hidden forces in the make-up of primitive men.[3]

Admitting that evasions and breaches of law and custom do take place in primitive groups and that rules and regulations are not 100 per cent rigid in operation does not controvert the claim insisted upon here that undisturbed primitive societies are societies of infrequent crime.

[1] Speck, Frank G., "Ethical Attributes of the Labrador Indians," *American Anthropologist* (new series), Vol. 35, pp. 559–578, October–December, 1933.

[2] Malinowski, Bronislaw, *Crime and Custom in Savage Society*, pp. 74, 30, 80, 84, 116–117, New York, 1926.

[3] *Ibid.*, pp. 51–53.

And admitting that conformity to custom in primitive groups is achieved through social pressures and practical considerations rather than through some blind force of obedience likewise does not contradict the point that customs are more binding and control by custom is more effective in primitive groups than in modern societies.

Infrequent Breaches of Mores among the Aboriginal Antlers

An intensive study of an American Indian tribe, called the Antlers, which now shows advanced stages of disintegration as a result of the impact of white civilization, indicated that in former times, when the tribe lived more unto itself and maintained a strong tribal cohesion, very few breaches in sex mores occurred. The infrequent violations in sex rules in aboriginal times are of significance because of the extreme Puritanism in women's sex conduct which the tribal mores insisted upon. According to Margaret Mead, who made the study of the Antlers, few women "would succeed for any length of time in flouting convention."

> In aboriginal times, their number was far smaller, social disapproval was much stronger, and the influence of such women on the group was relatively slight. Women of sixty can remember only two loose women in their youth. This is, of course, the proportion of public sexual laxity one would expect in a culture as puritanical as the Antlers where a man could stamp an illegitimate grandchild to death without being censured for it, and where one of the tales tells of strapping an unmarried mother and her lover to a raft and setting them adrift on the river. As long as the culture was a coherent, consistent whole, very few people would succeed for any length of time in flouting convention. In a genuinely homogeneous society, there are many factors which can overcome the influence of the individual home, should it chance to be defective. The child, whenever it leaves the home, is confronted by coherent and consistent social standards; the influence of age mates, more constructively reared, is continually brought to bear upon the deviating child in terms of ridicule, abuse, ostracism, etc.[1]

What a Papago Indian Woman Knew of Tribal Misconduct

Very little in the way of flagrant violations of sex mores is indicated in the autobiography of a Papago Indian woman, who rehearsed unabashed her life experiences from childhood to old age. She indicated that girls were instructed not to deal with men alone and inferred that there were few wild girls. "So I did that way and so did the other girls, all except a few wild ones. When we went to the hills to gather fruits, we all went together and an old woman with us. When we went to the pond with jars on our head to get water, we went in a group. Sometimes there would be boys there watering their horses. The wild girls would

[1] Reprinted from Margaret Mead, *The Changing Culture of an Indian Tribe*, pp. 192, 202, New York, 1932, by permission of Columbia University Press.

throw gravel at them, then laugh and run. It is said that some young girls did not come home at night (after tribal dances). It is said that some babies were dropped in the arroyo and no one knew. They told me that there were women who went alone to those dances, the wild women, who did not work and who went about painted every day."[1]

The impression one receives from reading this autobiography is that the girls were kept well within the conventions of premarital virtue and lifelong industriousness in this tribe, which had not as yet been rent asunder by the advance of the white man. To be sure it should not be assumed that tribal mores always insist upon premarital chastity and strict marital fidelity. In fact, in many tribes—there is no way of telling whether they are in the majority or the minority—custom and practice permit of varying degrees of premarital experimentation and marital libertics, usually limited by incest and exogamous restrictions. But the point is that in the two instances cited—two tribes that made female chastity a keystone in the social order—the rules of womanly virtue were generally adhered to in the period of undisturbed cohesive tribal life.

The Crime Situation among the Tlingit

To take one more example from the life of an American Indian tribe, the Tlingit, we find again evidence for the fact that violations of mores and law are not frequent, especially before outside disturbances create tribal disruption. According to Oberg, murder was infrequent until the introduction of the white man's whisky, and theft theoretically did not exist within clan, since property and food were held in common. Oberg did find that violations of clan incest rules were common enough to make the law less rigorously enforced and that the young were quick to take advantage of the advent of the white man's law when they found it permitted marriage between blood relatives. However, "when an illegal marriage occurred the couple went to the white settlement for protection."[2]

Lack of Crime in Premodern Chinese Villages

In the simple, homogeneous, isolated, and undisturbed peasant communities of former days, violations of custom were rare and crime was infrequent, since there was a maximum of cohesiveness and of primary group control which held individuals strongly in tow. The homogeny of premodern Chinese village life also achieved maximum control over

[1] Underhill, Ruth, "The Autobiography of a Papago Woman," *Memoirs of the American Anthropological Association*, no. 46, pp. 29–30, Menasha, Wis., 1936.

[2] Oberg, Kalervo, "Crime and Punishment in Tlingit Society," *American Anthropologist*, Vol. 36, pp. 146–149, April–June, 1934.

individual conduct. The old Chinese village was an unchanging social order, based primarily on the patriarchal large-family system, secondarily on local guild and mutual-aid associations, and remotely, if at all, on the law and edicts of a weak central government. There was a minimum of social differentiation, mobility, progress, and personal demoralization and a maximum of obedience, conformity, respect, mutual aid, and integration.[1] According to Yen, infractions in village life of old China seldom occurred, but as China began to register the disorganizing effects of contact with Western civilization and to pass from a customary local social order to a national legal order, crime increased greatly.[2]

> In the China of the past, there was very little law, but relatively perfect order —an order maintained by the family and the guild according to traditions sanctioned by centuries of precedent. At present, China is trying to follow the Western system and to codify as much law as quickly as possible, but her order has been lost, more rapidly, even, than the process of law-making has proceeded. Crime has developed and increased. It has become a very significant, if not the most significant, manifestation of the disorganization following upon contact with the West.[3]

The Crime Situation in Modern European Agricultural Villages

There are in the world today many modern agricultural villages and small towns, which maintain a high degree of integration and orderliness and which manifest very little violation of law and morals. Such orderly villages usually are found to preserve the effectiveness of primary group controls over individual conduct, to envelop a relatively homogeneous population, to present a united front of moral and social standards to their members, and to embrace changes from the outside world at an undisrupting pace or in an orderly way. Terpenning undertook to study descriptively, by means of observational tours, several samples of well-ordered, stable modern European villages as a basis for comparison with American village communities. His selected cases of European villages all show a cohesive local social order, a well-integrated social life, a slight if not a minimum amount of class and social differentiation, and lack of chaotic or disrupting social change. At the same time, crime is reported as being consistently low in these well-established, well-ordered villages.

[1] See Kulp, Daniel H., *Country Life in South China*, New York, 1925 for a description of the undisturbed flow of primary group life in the Chinese village called Phoenix.

[2] Ching-yueh Yen, *Crime in Relation to Social Change in China*, Ph.D. dissertation, University of Chicago, June, 1934, p. 8. For a summary of the main points of this study, see "Crime in Relation to Social Change in China," *American Journal of Sociology*, Vol. 40, pp. 298–308, November, 1934.

[3] *Ibid.*, p. 1.

A Swiss Commune.—Both pastors speak well of the morals of their people. Both they and the school teachers, as well as other villagers, insist that there is practically no delinquency among adults or young people of the permanent members of the commune, and very little among the transient laborers. The most serious wrong-doing on the part of the latter was the theft of a bicycle. The thief was severely punished. The old pastor stated that there had not been more than ten or twelve illegitimate children born in Russin or the two nearest villages in the fifty-four years of his acquaintance with them. Family and village life is very regular, and no crime has been committed in Russin in several times five years. The only exception which I could find to such optimistic reports of village morals was the fact that a few individuals sometimes get drunk.

The German Dorf.—The village organization, the intimacy and interdependence of the citizens, not only necessitates considerable conformity and systematic behavior on the part of old and young, but fosters high moral idealism and a golden-rule brand of emulation in service. The morality which characterizes German rural people is not exclusively a negative sort, but the village displays effectively many *verboten* (forbidden) signs; and the negative morality is likely to be enforced by many means of social control, even gossip, threats, and calling names. Village public opinion is a force to be reckoned with, and village neighbors seldom flout it. Although many German farmers drink intoxicants, drunkenness is very unusual in a village. Germany has one of the lowest rates of illegitimacy among European countries, and the rate would probably be much lower were it not for city statistics. Such destructive depredations as those tolerated by American neighborhoods on Hallowe'en, or the petty thieving of apples, melons, etc., which are winked at in such neighborhoods, would not be allowed in a Dorf. So emphatically counterselective are most formalized varieties of immorality that they do not survive for so long in the intimate life of a Dorf as they might in an isolated neighborhood. A petty thief cannot be tolerated in a situation where a man's crops, tools, and various other possessions are far separated from his dwelling and so are quite unguarded.

When it comes to the subject of crime and delinquency and their treatment, the situation in a German village and that in an American rural neighborhood are very different, although comparative statistics would not be very significant because of the unreliability of such statistics in the latter group. There is seemingly less falling below minimum standards of behavior in the German village than among American farming communities, however. In the village of Kaditz there has not been one person convicted of a crime or misdemeanor within the memory of the assistant pastor, who has lived in the village and has been intimately associated with every neighbor for twenty-six years. The lower rates of crime in European countries as compared with the rate in America seem to me to find their explanation not mainly in superior police, laws, or courts, but in the preventive influences of European rural and urban social organization in general.

The French Commune.—There is some vulgarity and even obscenity to be observed among the over-stimulated revellers in the wineshop, and among rowdies at parties, but evidences of overt immorality are very scarce. In the last five years there have been four illegitimate children born in Gattieres, and they

were in a family of Italian immigrants, the father of whom was unable to marry the mother because of having another wife in Italy. The conformity of French peasants to the ideals of honesty is similarly general. For instance, the hunt for fuel is a continuous and pressing one, so pressing that the neglect and careless destruction of forests by fire is non-understandable. And yet, with all the urgency of fuel gathering, it is not uncommon to find tempting piles, uncorded and unmeasured, by the roadside, where an armful or two might be taken without leaving evidence of the theft. If thieving were common such chances would not be taken. There are no fences between holdings, and lines are not always well marked.

Many villagers were asked if drunkenness were not a problem, and the answers were unanimously "no." The unanimity is understandable in view of the fact that there were only three teetotalers in both villages. The motive of morality does not impress an observer as being a religious motive. It seems rather to be the result of an informal and largely unconscious social contract, necessitated by the intimacy of neighborhood contacts. The weakness of the religious appeal in moral matters is shown by the failure of the church to prevent the artificial limitation of the size of the family. Another strong motive of morality is similar to that of the peasant's frugality, and to his limitation of the size of the family, *i.e.*, the desire for the success of the family.

The Italian Commune.—In interviews with the priests, teachers, storekeepers, and others, I could get very little definite data on the morals of the villagers. There were about twelve men in the village who habitually drank to excess, making it necessary for the Guardia (police) to look after them. The problem of drunkenness was not considered as serious a problem in Perinaldo as an American would expect. While the American farmer used to go home drunk and murder his wife and children, the Italian villager does not cause much of a disturbance. Only one man causes any serious inconvenience. He is a native who moved to France, where he became a French citizen, and then returned to his boyhood home, where he has committed depredations which have brought him to court fifteen times in four years. The citizens are becoming discouraged with him and are planning to have him returned to his adopted country, or transported to some distant locality. There have been five illegitimate children born during the last five years. Such children and their mothers are discriminated against in various ways. The mothers find it difficult to marry, and live in disgrace.

The Irish Neighborhood.—Priests, teachers, and parents agreed that there were very few serious delinquencies among old or young in the communities. Policemen were interviewed in both villages, and they complained only of occasional drunkenness and quarrelling, and, still more seldom, cases of petty thieving. Most of their time was spent in watching the traffic, seeing that saloons were closed on time, and checking up on school attendance. Both villages reported that no crimes had been committed by villagers during the preceding five years. Two illegitimate children had been born in one village, and three in the other, during that time. There was general agreement that family life and sex relations were very regular. I found only one habitually incorrigible drunkard. He was a former British soldier, who kept the Newtown police busy locking him up for drunkenness and disorderly conduct.

The Danish Sogn.—The pastor, who was the only local person who seemed not inclined to compliment the community, admitted that there were many marriages which took place only a short time before the birth of children to the contracting couples. Family life was claimed to be usually happy and regular. The usual absence of delinquencies of other sorts among the villagers was insisted upon by pastor, teacher, and all persons interviewed. There had not been a crime committed during the teacher's twelve years of service. The unanimous pride of the neighbors in respect to everything pertaining to village and family social and economic life, though very significant in itself, made me inclined to discount slightly some of the facts with which they furnished me. I was unable to find any evidence for my suspicions until the last evening of my visit. Though beer was served in practically every home, I was told by every person interviewed that there was no drink problem in the village or nation, and that cases of drunkenness were unheard of except on very rare occasions such as the great provocation of a village celebration. This insistence seemed inconsistent with the amount of liquor which I saw the grocery stores selling and the advertising of one brewery, Tubarg's, to the effect that it had sold bottles of beer enough in fifty years to go fifteen times around the earth if placed end to end.

On this last evening my helpers and I started down the street, when we ran into an excited group of children and a few adults gathered around three drunken workmen who were very badly dishevelled and ferociously determined to fight, until their associates who were holding them, decided to let them go. When released they decided that it was supper time and postponed the impending slaughter. The crowd dispersed, spreading the news, and we very soon began to receive assurances from various neighbors to the effect that the parties to the brawl were non-resident road workers, and that such a thing had hardly ever happened before. One villager who had heard that our study might be published emphasized the unusualness of the incident, and hoped that no mention of the matter would be made in the book. I am sure that the neighborhood indignation must have made the way of the transgressors hard on that occasion at least. There is no question in my mind but that drinking of intoxicants is a problem here as elsewhere, but the great excitement over this incident, as well as the confirming assurances, convinced me that such disgusting exhibitions were unusual.[1]

One hears rumors of the extreme orderliness in modern villages and towns planned and planted by totalitarian states, such as Litturia, Italy. The homesteads and communities erected by the American New Deal's resettlement and relocation enterprises are likewise planned communities. The orderliness of these governmentally planted communities, whether planned by the American democratic state, Russia's communistic state, or Fascist governments, is probably rather the result of efficient regimentation than of indigenous community life. At any rate, it will be interesting to discover at a future date whether these regimented

[1] TERPENNING, WALTER A., *Village and Open-country Neighborhoods*, pp. 123, 188–189, 193, 254–255, 287–288, 310–311, 339–340, New York, 1931. By permission of D. Appleton-Century Company.

communities are immunized against crime and how they achieve this immunity.

Relative Absence of Crime in Highly Disciplined Religious Sects

The types of societies showing infrequent crime are by no means exhausted by the canvass so far. Many, if not most, religious sects that transplant themselves to special communities, have usually erected a highly disciplined social order, an order which, while remaining intact, is intolerant of transgressions in thought or action. Religious sects, as contrasted with denominations, have usually dictated or dominated almost completely the total daily life and conduct of members, even including work, dress, and diet; and the more these sects were persecuted, the more they developed a righteous in-group solidarity. The Jewish ghetto, especially the European variety, was clearly an example of a transplanted religious sect, herding closely because of persecution and maintaining a rigorous regimen on its members to preserve itself. There is strong suspicion that, when persecution eased and close herding was no longer so necessary, the Jews showed signs of dissolution as well as demoralization. This is perhaps more true in America than elsewhere, where Jews are able to lose at least part of their sectarian identity. The Jew can go bad in America and he was able to go bad in Vienna and Paris and other European places of relative absence of tension. As a result of anti-Semitic activities in Nazi Germany and Nazified Austria, the Jews will undoubtedly regain much of the solidarity and personal morale lost in the modern period of easement.

The Puritan Colony of Massachusetts

The Puritan colony of Massachusetts is an example of a transplanted religious sect or of persons willing to subscribe to the sect. It is also an example of well-ordered and highly disciplined life on the small-farm frontier of family settlement. Nevertheless, the Puritans of early New England erected a hidebound social order, which discountenanced transgressions, looseness, and frivolity. It was able to maintain this high degree of discipline because of the relative isolation on the New World frontier; the rather complete accordance with seventeenth century English middle-class morals and standards of living; the necessity of a high degree of group and personal morale in maintaining life under unfavorable conditions; the strong, almost fanatical, Calvanistic religious front; and effective sin-chasing activities and punitive measures for nonconformists. Crime was infrequent. The few violations were mainly concentrated in the field of religious nonconformity and in sex laxity.

Puritans being what they were, Massachusetts Bay was an orderly colony judged by modern standards. There were no riotous outbreaks, no lynchings, no

desperadoes, no notorious scandals. The reasons for such external calm are implicit in the character of the migrating Puritans. These settlers were prevailingly unified in spirit and ideals; their tradition of law-abiding was reenforced by religion; and the plans for migration included the apparatus for dispensing justice. What happened on other frontiers in the way of criminality can be attributed pretty largely to the absence of these conditions. The Puritans were disposed to regulate the lives of individuals as carefully and in the same way as Moses and the Levites regulated those of the Hebrews. Every law on the colony's statute books appended a Biblical reference to give it authority.

All the Scriptural sins were crimes in Massachusetts: slander, adultery, bestiality, irreverence, witchcraft, Sabbathbreaking, and the rest. Punishments, where not specified in the Old Testament, were taken from English practice. Men and women alike were branded, whipped at the cart's tail, pilloried or locked in stocks, ducked, mutilated by ear-cropping or otherwise, forced to wear a badge or initial letter to indicate the crime committed, banished from the colony, or executed.

There was here no liberality, no softening, because of the hardness of life in a frontier. Why should there be, indeed? The Puritans had emigrated to preserve their beliefs, among other purposes, and they had no intention of allowing sinners to escape. God was a stern judge. If His people failed to mete out justice, then He in His wrath would smite the whole people. This was a principle a primitive man could easily understand. A man is necessarily his brother's keeper, for the gods when angered loose destruction which does not stop with the sinner himself. A sense of group responsibility was bred by the hardness of life.

It is significant that that majority of the punishments whose records have come down to us are for religious and sexual offenses. A law of 1630 declared that a Catholic priest or a Jesuit found in the colony should be warned out and, if he returned, suffer capital punishment. Quakers were repeatedly tried and condemned. Anne Hutchinson and Roger Williams were sternly disciplined for questioning pronouncements of the elders.

Sexual sins were common. It must be remembered that the puritan was the inheritor of a fund of coarse sensualism from his middleclass Elizabethan and Stuart English origins. His religion permitted no class of recognized prostitutes. Yet he was facing a bleak prospect and doing hard work in the New World: a measure of carnality was the result. The church throughout New England passed rules prohibiting the baptism of a child born less than seven months after the marriage of its parents, unless the father and mother made public confession of their fault. These confessions were made in large numbers because of the parents' desire to secure baptism for their offspring during a period when baptism was believed to be essential to salvation, with the Calvinist hell as the alternative.

The church fathers did everything in their power to prevent sins of the flesh. One law forbade single women, or wives whose husbands were absent, to entertain lodgers, on account of the "appearance of sin." Nor, in judging the Puritans, must it be overlooked that a large part of the "sin" occurred among indentured servants, whose contracts prevented their marriage while in service. For the average puritan, early marriage was a healthy outlet, but servants must find satisfaction where they could.

Once more must be emphasized the similarity in their adjustment to the conditions of life between frontiersmen in New England and the primitive savages. The man who offends against the mores, who breaks the taboos, who is an heretic, a nonconformist, a rebel, offends the powers above, who rule this life. The Puritans punished sinners and criminals severely, not because of bigotry or sadism, but because God would otherwise punish the colony—and His punishment would strike that weakest spot in a struggling pioneer's armor, his economic life.[1]

Lack of Crime among the Boers of South Africa

After their trek into the Transvaal the Boers also presented a frontier family society which gave way to crime and violations only infrequently, certainly very little until the interpenetration of the English in the nineteenth century. According to Leyburn,

> The people had never been given to serious crimes against person and property among themselves. What a Boer did to a native came under another category; the Boers did not kill one another. It was said of them that crime was unknown among them; that they had jails, but these were comparatively empty, although convictions bore a very large proportion to the reported criminality.[2]

Analysis of this evolving Boer society as a result of the Transvaal trek shows that the Boers were quite homogeneous in standards and norms of living, maintained a strict Calvinistic and scriptural moral order, lived on isolated farms as rugged individualists with a minimum of central authority, considered themselves as a chosen people, maintained a high degree of morale, and showed strong resistance to change in their ways.

Reputed Lack of Crime in All-Negro Communities

Of unusual interest in the examples of societies of infrequent crime are the cases of all-Negro communities. Race dogma, particularly in the United States, imputed to Negroes innate proneness to crime. However, there have been and still are special Negro communities that display very little crime. The fundamental conditions of primary group cohesiveness, relative isolation, and cultural homogeneity are practically the same in these all-Negro communities as in other societies of infrequent crime. Material below describes the social conditions in two all-Negro communities: Mound Bayou, Miss., and St. Helena Island, off the coast of South Carolina.

Mound Bayou.—"Here in Mound Bayou," said Mayor Green, "we try to find out what is behind any piece of wrong-doing. We have discovered that certain

[1] Leyburn, James G., *Frontier Folkways*, pp. 22–24, New Haven, 1935. By permission of Yale University Press.

[2] *Ibid.*, p. 124.

families exploit their children in the cotton-picking season. If a father takes all his boy's earnings away from him, one of two things is likely to happen. Either that boy will begin to steal to get spending money. Or he will run away from home. We're stopping that."

Then Green told me of his handling of grown-ups who had gotten into trouble. How with a kindly talk he had straightened out the quarrel between Sammy and Hoke over a boundary line. How Jack had been cured of speeding and the marital troubles of Roxie and Luke fixed up.

"We have about one thousand people in the village, eight thousand in the community as a whole, and only two part time peace officers," said Green. "John Thomas, the hot-dog man, is town marshal, and John Young, grocer, is deputy sheriff. They hardly ever have anything to do. We haven't any jail. We haven't had a major crime in thirteen years."

No jail and no major crime in thirteen years in a community of eight thousand people is news anywhere. But when this fact concerns an all-Negro town, you prick up your ears. I remembered the charges commonly made against the Negro—his childishness, his emotionalism, his propensity for settling disputes with the razor, his difficulty in distinguishing his property and yours.

I said: "Is the law observance of Mound Bayou due to the happy accident of an unusual magistrate?"

"No," said Green. "For one thing, I am not unusual. I'm merely using common sense. But a more important fact is that there is something else operating here. The Negro is living *in complete self-respect.* In other words, he lives a normal life. Normal impulses have play."

Mound Bayou was founded fifty years ago by a remarkable Negro, Isaiah T. Montgomery, who had been a body servant to Jefferson Davis, president of the Confederacy. In the late '80's, the Yazoo and Mississippi Railroads, building a line from Memphis to Vicksburg, obtained large grants of land from the state of Mississippi. Much of this land was lush alluvial swamp, heavily forested, uninhabited. Naturally the railroad wanted to get people on the land. Hearing of Isaiah Montgomery's success at the Davis plantation, the railroad proposed to the ex-slave that he start a Negro colony. Montgomery looked the land over and picked out 840 acres in Bolivar County, half-way between Memphis and Vicksburg.

Enlisting the help of his young cousin, Ben Green—father of the present mayor and magistrate—Montgomery gathered together a band of his people, sold them tracts at $8 an acre, $1 down and $1 a year. Out of the dense forest these black folk hewed their homes.

More and more Negroes came, seeking to better themselves. More and more land was bought. Today the community covers 30,000 acres, farmed to cotton and corn. A larger proportion of these people own their own land and there are fewer mortgages than in the average community of mixed whites and Negroes in the South.

The village looks like many a small Southern town, a street of stores, several of them very modern and good looking, a couple of garages and auto agencies, a saw mill, a gristmill, two cotton gins, one owned by outsiders, and one co-op

owned by the Negro planters. In the center of the town stands a $115,000 consolidated school with 800 pupils and 15 teachers and a Tuskegee principal.

"The Mound Bayou Foundation was started four years ago by some of the leading citizens of the community with the purpose of keeping alive the pioneer spirit of the founders. In these difficult years it has helped dozens of Mound Bayou farmers and merchants to save their plantations and business places. Sometimes it makes outright gifts of money to people in trouble, sometimes it loans money, sometimes assists in refinancing. It has assisted several deserving boys and girls through college.[1]

Charles S. Johnson, in commenting on the sociological significance of the all-Negro community, contends that it has "very limited possibilities for bringing about permanent racial adjustment" between whites and Negroes, but he admits that such a community should be able to keep crime at a minimum. "In such Negro communities as Mound Bayou, Miss., Boley, Okla., and St. Helena Island it has been observed that the homogeneity of the original group, the intimacy of personal relations, and the consciousness of a common enterprise may help to reduce the amount of crime. These factors may, indeed, preserve members of the group from the disturbing shocks of race prejudice and permit them to participate fully in the life of the segregated community. But, like other types of culturally isolated communities, the group disadvantages often outweigh the shadowy advantages of individual escape."[2]

St. Helena.—The churches unify life in the several surrounding plantations. They provide common meeting places for the young and old. To "belong" to a church is to have status among the other church members, and, as will be noted later, the churches in St. Helena are peculiarly active agencies of social control. As in all populations, there are scorners who laugh at the "hypocrites" within the church and say they prefer to remain "outside." Non-members, however, do not escape the influence of the church. They attend "big meetings," weddings, funerals, picnics, and singings. Non-members involved in minor offenses, like members, prefer the prompt and inexpensive "church trials" to those of the secular courts.

Another peculiarity of the church on St. Helena is its participation in affairs which in a more differentiated society are handled by other organizations. The chief example of this is the settlement by the church of petty offenses committed on the Island. If, for instance, two natives become involved in an altercation, or if one commits a minor offense against another, the affair is settled in a church trial. Unless the offense is a serious one, the county court of Beaufort rarely hears of it. Public opinion would condemn the plaintiff's reporting to civil authorities any offense of a minor nature. If settlement can be secured in the

[1] WALDRON, WEBB, "All Black, A Unique Negro Community," *Survey Graphic*, pp. 34–36, January, 1938. By permission of Survey Associates, Inc., and Mr. Waldron.

[2] *Ibid.*, p. 36.

churches with which the Islanders are familiar, why go to the trouble and expense involved in paying court fees and attending court? Civil law is dreaded and is generally spoken of as the "unjust law" as contrasted with the "just law" of the church, due to the discrimination and injustice that the civil courts have inflicted, as well as to the costs attendant upon litigation. The civil law is used as a last resort only if the defendant fails to comply with the decree given at the church trial, but natives report that this is rarely necessary.

While the research staff was in residence on the Island, two Negro youths attempted to steal some gasoline from a tank in the shed at headquarters. The boys were apprehended and the owner of the property brought charges against them in the church. One of the accused "skipped" to Savannah before the church trial was held. The other was ordered by the church to pay for the stolen gas. No fine was imposed and there were no fees of any kind.

Serious offenses are few. Dr. R. M. Brown, a member of the investigating staff, learned that during a twenty-year period preceding 1928, there were about twenty-eight convictions in the magistrate's court in a normal year. Furthermore, a check for one such year revealed that about half of the cases and nearly all of the serious ones were those of non-residents of the township. The distribution of the twenty-eight cases is as follows: assault and battery, 8; miscellaneous minor offenses, 8; disorderly conduct, 4; breach of peace, 4; larceny, 3; carrying concealed weapon, 1. Three-fourths of the convictions are for emotional outbursts with results too sudden for the church machinery to intervene.

The phenomenon of migration, especially the return movement, may eventually necessitate the abandonment of the voluntary control by the church. Woofter notes that already there are signs that returned migrants and visitors from the mainland have tended to increase the serious offenses on the Island.[1]

All the foregoing samples of societies and communities of infrequent crime and infractions apparently indicate that for several understandable reasons the individual is seldom able to escape the pressure for conformity while the cohesiveness of these primary social groups remains intact. When changes begin to disrupt the integration and cohesiveness, when the group begins to show signs of differentiation and heterogeneity, when individuals formerly stabilized become mobile in activity and fluid in ideas, when the clash between new and old standards of behavior becomes visible, then control over personal conduct becomes increasingly difficult and demoralization as well as crime apparently increases. Several cases indicating the relation of increasing infractions and demoralization to disrupting influences and forces will be cited for illustration and analysis.

Tribal Disruption in Northern Rhodesia

The invasion of native precincts by dominant European whites in Northern Rhodesia (Africa) has been accompanied by considerable dis-

[1] Kiser, Clyde Vernon, *Sea Island to City*, pp. 78–81, Columbia Studies in History, Economics, and Public Law, New York, 1932.

ruption of tribal customs, and the rise of crimes against the dominant code by confused emancipated natives.

The breaking down of ancient customs which are repugnant to British ideas of law and decency is largely in the hands of the District Officers who are in direct contact with the native. Missionaries are doing much to destroy the adherence to the more vicious of native customs, and increasing contact with the European will have the inevitable result of teaching the native that some of his methods and ideas are obsolete and must be abandoned.

While it may be anticipated that certain crimes due to adherence to native customs will disappear with the advance of civilization, it is equally certain that other crimes amongst natives will have a tendency to increase, and such increase will, it is to be feared, be due mainly, or even entirely, to that European influence. The increasing desire of the native for clothing, money and luxuries in such quantities as are quite beyond his means will automatically result in petty larcency on a greater scale than is at present the case. The "town-bred" native who is largely free from tribal influence and unawed by the authority of native chiefs is on the increase, and his environment is often such as to lead him into the easy ways of crime.[1]

Demoralization of Reservation Indians

A special study of crime among the Indians of the reservations of the northwestern United States in 1929 revealed the fact that the native social order had been torn asunder as a result of the impact with white settlers and their civilization. Indian family homes were overrun, lacked privacy, abounded in discord between members, and showed a wholesale lack of discipline over children. Marriage practices were confused and disordered, and marriage according to Indian custom had practically disappeared. There was very little semblance of tribal organization left—old religious beliefs had largely perished, aboriginal communal economic and recreational activities had disappeared, native councils had become artificial and ineffective. Community life among the reservation Indians was found to exist on a very low level. Listlessness was most apparent. Isolated for the most part from participation in the better activities and with the better elements of white communities, Indians were found to mingle, when they did mingle with whites, at the worst and most demoralizing levels of white community life—in dance halls, bootlegging joints, pool halls, and jails.[2]

[1] Stephenson, Lieut.-Col. A., "Crime in Northern Rhodesia," *The Police Journal* (London), Vol. 3, p. 524, 1930.

[2] United States Congress, Senate, *Survey of Conditions of Indians in the United States*, Hearings, Part 26, "Law and Order on Indian Reservations of the Northwest," submitted to the Senate Committee on Indian Affairs, June 30, 1932, pp. 14177–14182, Washington, D. C., 1932.

The principal offenses of the Indians were found to be drunkenness and sex laxity—especially maintaining adulterous and temporary relations. The drunkenness which got the Indian into court was that which was found in public places, on highways and streets. Crimes of violence among the Indians were generally connected with drunkenness. Indians were not bootleggers but were apt to act as go-betweens for white bootleggers. "Treating rather than traffic" was discovered to be the Indian's greatest difficulty.[1] Whisky drinking had even been widely taken up by the Indian female population, who aboriginally would have been quite generally abstemious.

> One of the best educated Indian women on the Umatilla Reservation, not yet an old woman, recalls the time when only three women drank. People looked upon them, she says, with repugnance and horror. Now, she says, it has become to some extent a common-place thing for women to drink. A similar state of affairs exists on many other reservations. A case not easily forgotten is that of Julia White Plumage, whom we saw in the Blackfeet Court of Indian Offenses, a handsome, well-kept woman in her forties, who told us she had not begun to drink until three years before; she didn't know why she began; everybody else was drinking.[2]

The demoralization and tribal disintegration of the reservation Indians were complicated, both in cause and effect, by race mixture and the usual instability of half-breeds. Out of 2,332 cases of offenders in the special courts for Indians, known as to degree of blood, only 57 per cent were full-blooded Indians, although the proportion of mixed and full-blooded Indians in the reservation populations served by these courts was not known. Mixed-blooded Indians showed a much higher percentage of crimes against property than the full bloods; while the latter were higher in drunkenness than the former; all of which indicated that the mixed bloods had moved further away from the typical Indian offenses, characteristic of the Indians of the Northwestern Reservations than had the full bloods, and consequently further toward greater criminal sophistication. Another indication of the same trend is shown by the fact that a much larger proportion of mixed than full bloods were found with charges and convictions in regular state courts of the white people.[3] While the Indian in these localities only infrequently got involved in the "slick" crimes, such as embezzlement, fraudulent checks, and forgery, the mixed bloods showed up preponderantly in these sophisticated professional crimes recorded. All told, there were 28 crimes of forgery, fraudulent checks, and embezzlement out of a total sample of 2,873

[1] *Ibid.*, pp. 14148-14151.
[2] *Ibid.*, p. 14158.
[3] *Ibid.*, p. 14159.

crimes by Indians in 1929. Twenty-six of the 28 were known as to color and only 4 of the 26 cases were full bloods.[1]

The relation of arrest far away from home to "excursions for food, work, or amusement at distant celebrations, like rodeos, fairs, is apparent from some of the cases." The excursions of Indians on the Pacific slope were more varied and involved more mingling with the whites than were those farther east. Thus the factor of mobility in the outside world of freer contacts played an important role in bringing about the demoralization of natives unused to spatial and social latitude. Of the cases studied at Courts of Indian Offenses in 1929, 74 per cent were reported enrolled in reservations of the vicinity. The remainder either were not known as to tribal status or came from far-off reservations. Approximately one in four Indian offenders was on the loose, away from his particular home base.[2]

Finally, it was discovered that no disgrace attached itself to the Indian when he was released from prison and returned to his home community. Instead, families gave feasts for the returning member. Stealing did not brand an Indian as criminal in the eyes of other reservation Indians, probably due to the fact that stealing from the out-group in aboriginal times was heroism and that stealing from members of one's own group in modern times was a matter of point of view. The Indian's social status among his fellows even was enhanced by his being picked up for minor offenses by the white man's law.[3]

The Moral Disruption of the Antlers

Already referred to was the case of strictness and high discipline maintained by the Antler Indians during undisturbed aboriginal days. This group of Indians, according to Margaret Mead's study, registered only very indirect effects of the Spanish conquest of America; certain economic changes as a result of the contact of French trappers and fur traders, which changes did not tear apart the institutional fabric controlling individual conduct; and minor but undisrupting changes following the intrusion of Presbyterian missions. Tribal institutions and customs withstood these changes very well. However, when the white settlers advanced on the tribe and the white government forced the natives on undesired reservations and individual family homesteads, tribal life was not strong enough to withstand the dislocation and severe impact. Consequently, tribal mores and institutions disintegrated quickly and the natives became demoralized. The process of disintegration and demoralization was particularly visible in the conduct of

[1] *Ibid.*, pp. 14149–14150.
[2] *Ibid.*, p. 14154.
[3] *Ibid.*, p. 14163.

the women, who aboriginally were expected to be strict and puritanical in decorum. The complete breakdown of old standards and the clash of new standards and practices with old customs were found to be appalling. Both family and community had lost their grip on the individual, who floundered in a chaotic "welter of meaningless, uncoordinated and disintegrating institutions."

Conflict between Antler sex standards and present day reservation sex laxity is the most important factor in producing sex delinquency. The Antlers are essentially puritanical in their attitudes toward sex. Women were expected to be passive, unresponsive, never initiate sex activity nor courtship in any way. Young girls were bred to modesty and fear, and chaperoned on all occasions.

The Antlers manifest the customary inconsistent attitude that it is worse to bear one illegitimate child to one lover than to have taken many lovers without pregnancy ensuing.

The unmarried mother, the mother who deserts her children for temporary promiscuity, the girl with a conspicuous record of promiscuity, are all able to marry and settle down and become respectable members of the community again. Should the daughters of such women, in their time, become indiscreet or promiscuous, or should their husbands leave them, their old derelictions will be recalled and cast up against them. Such mothers today have great difficulty in controlling their daughters, and where there are no other relatives who have influence over them, the daughters of mothers who have lived promiscuously are very likely to follow in their footsteps.

Once the customary standards of behavior under which a woman is always passive are let down, the women and girls play an important initiating role in making sex proposals. Among the unvirtuous, it is more often the girls and women who send the messages for assignations, while the men treat their companions in casual sex-activity as loose women, unworthy of respect or consideration.

With the building of frame houses, when the present grandmothers were children and very young girls, the menstrual hut was abandoned. It disappeared over a period of about ten years, an amazing collapse of what appears to have been a strong cultural attitude. The disappearance of the menstrual hut was accompanied by a complete abrogation of the old taboo against intercourse during the four days of menstruation.

But for the last twenty-five years there has been a steady deterioration of behavior among the Antlers. With old controls breaking down and no new ones taking their places, public opinion has not adapted itself to changing practice as it would in a less disorganized community.

Yet with every woman deviating from the code being disapproved of by men and women alike and feeling herself a sinful person, nevertheless the majority deviate. This produces an essentially maladjusted society in which all are sinners and everyone points the finger of scorn. A part of the inevitable conflict between standard and behavior is solved by the myth that the white man is responsible for all the Indian's sins.

At a hand game, the staid modest young wife will dance side by side with a rollicking, drunken, syphilitic who shouts obscenities as she dances. The quiet,

inexperienced little girls of fifteen sit in a row which also includes girls little older than themselves who are notorious. After the dance is over, the young men drag away the drunken shouter of obscenities and subject her to the final indignity of mass assault, finally turning her loose naked to find her way to shelter as best she can.

Fifty years ago there were two loose women in the tribe; today there are about forty women at any given time who are living equally loose lives.

This means that Antler society, as such, no longer exists as a coherent social fabric; it has been replaced by a series of discontinuous, non-comparable disunited Antler homes. There is no standard of good or bad beyond the standard of the social group, and the delinquent parents have no way of successfully proving an alibi for their own or their children's bad behavior.

It would be possible to recognize this unprimitive approximation to current American conditions and yet not predict an increase in delinquency among the Antlers, were it not for the existence of other factors, absent in the white community, which combine with these conditions, such as lack of standards for boys and men, relative exposure of unprotected women to assault, the aboriginal reliance upon fear and its breakdown under conditions of coeducation, and the failure of the group to isolate its delinquents so that they do not become a source of infection to their age mates and younger relatives.

The American home finds it difficult to provide growing children today with a firm and reliable character development. The Antler home suffers from similar handicaps, many times exaggerated; the conflict between the parents and children in standards of conduct is far greater. Parents consider the fact that their daughter has been addressed, either directly or through an intermediary, by a man, as cause for punishing her. The exchange of any private conversation between young people of the opposite sex is still regarded as reprehensible. The children, on the other hand, have conceptions of love making, note writing, gathered at school, influenced by the automobile, the standards of the moving pictures, and the behavior of cognate tribes who have become more assimilated to current white practice.

The second great difficulty of the American parents, heterogeneous standards within the community, is replaced for the Antlers by two other complications, the fixity of Antler moral theory which has been accompanied by an almost universal breakdown in practice, and the divergence between old-time Antler, modern Antler, mixed-blood, other-tribal, and white, practice. From all these various groups, divergent moral standards are being presented to the young people; also they are continually forced to recognize in the behavior of their own parents a discrepancy between precept, and past, if not present, practice.

But the process of cultural disintegration in which the inevitable progress of the more complex culture gradually breaks down the native culture is as meaningless, as random, as is the collapse of a house before a wrecking machine. Within this disintegrating social structure, the individual develops a formless uncoordinated character. The student finds neither formal order and the typical behavior characteristic of homogeneous societies, nor the self-conscious individualization of cosmopolitan communities, nor does the investigator find sufficient numbers to afford statistical control of his material. It is possible only to record

the complete fortuitousness of the process—by which the primitive culture breaks down and the individual member of the primitive society is left floundering in a heterogeneous welter of meaningless uncoordinated and disintegrating institutions.[1]

The Polish Peasant in Europe and America

Toward the end of the nineteenth century, there were visible signs of a gradual breakup of isolation of Polish peasants and a growing participation in a larger world beyond their folk communities. Their communities were being incorporated into a national and world civilization. The traditional rules of the primary-group folk order became harassed by the intrusion of new standards and norms of living from without and could no longer hold individuals completely in tow.[2]

Thomas and Znaniecki suggested that the peasants get incorporated into the larger national scene more easily than tribal peoples into an advanced civilization.[3] While this is undoubtedly true, there is strong suspicion that the disorganization of peasant folk, attending the breakup of their isolation, is not so severe as are the disruption and detribalization that accompany the impact of dominant on unadvanced people.

However, as a result of the breakup of primary-group isolation and the impact of outside forces, the socially infected peasants go through a process of individualization, by which they get released from the traditional values of family and group welfare and the practices of abnegation of self, and respond to new individual wants, which are based on considerations of hedonism and self-aggrandizement. Cases of disorganization among the Polish peasants even were found to "show a verging on or passing into crime," although such cases were rare rather than frequent.[4] The following cases, representative of a much larger variety collected and cited by Thomas and Znaniecki, illustrate the individualization and demoralization of peasants as a result of the decline of the old folk culture and the impact of new schemes of life from without.

The old folks dress modestly in this locality but the same cannot be said of the youth. It is pitiful to see so many girls who as soon as they see a stylish skirt or jacket or bobbed hair worn, by one of the worst kind perhaps, want to dress accordingly, but do not realize that it is shameful and disgraceful for the village youth. There are, I daresay, some good-for-nothing boys who, having donned a pretty, nice looking overcoat or a stylish suit of clothes and shoes, not only would not salute reverently one who wears a peasant's coat, but would not even stop to

[1] Reprinted from Margaret Mead, *The Changing Culture of an Indian Tribe*, pp. 186, 187–188, 189–190, 192, 193, 195, 201–202, 203–205, 221–222, New York, 1932, by permission of Columbia University Press.

[2] Thomas, William I., and Florian Znaniecki, *The Polish Peasant in Europe and America*, Vol. 2, pp. 1119–1121, New York, 1927.

[3] *Ibid.*, pp. 1121–1122.

[4] *Ibid.*, pp. 1138–1139, 1135.

converse with him. Every one of these profligate boys reflects thus: "I dress better than that one does, I may possess a bigger fortune; then why should I speak to him." Should you visit his home, however, you would never suppose that such a dressy young man lives there, for the house is filled thick with dirt and filth. Such was not the state of affairs in Ostrów years ago. Therefore it is not to be wondered at that Roch Soczewka, during his stay here several years ago, did not find any elegance and reported to the Gazeta that all the inhabitants of Ostrów dress modestly. Today nearly one-half of the girls dress above their means and there are also several who are not worthy of mention.

—*Gazeta Świąteczna*, 1893, 5.

Some young men, sons of the best known parishioners [in Osiek] came to the Pastoral Mass [on Christmas], stood in the middle of the church, put their hands in their pockets and looked around, and whenever they saw a bald-headed old man or a girl in a hat, they took a handful of peas from their pockets and threw it upon them. . . . It was difficult to believe that Christians, Catholics, dared to amuse themselves in such a way in the church.

—*Gazeta Świąteczna*, 1909, 3.

The young people of Zagnańsk have been lately committing doings worthy of penalty. They break windows, throw sheaves out of the barns, tear clothes, fight among themselves, etc. When I asked once a farmer, "Whose fault is it?" he answered me: "Money's." It means that in our country increasing earnings and increasing license go together.

—*Zaranie*, 1913, 37.

There are here [Ulany] store-keepers who teach children to steal. For gingerbread, candy, they take barley by the quartern. And when the child is accustomed to it, he will take a bushel. When the "rogues" notice that he is a sincere rogue, they take him "in company." They steal together, they drink together. . . . [Continuous thefts are reported from another village in the same community. The community represents a purely traditional stage of cultural development and a rather low one; no reconstruction, no schools, poverty. But costumes have changed which proves disintegration.]

—*Gazeta Świąteczna*, 1904, 22.

In one village near Frampol . . . frequent robberies began to occur lately. Robbers attacked even on the roads people returning from fairs or from the town. And in the village nobody was sure of his property, for not only linen left to whiten did not stay, but even what was hidden in the pantry under a lock was not secure. . . . The farmers, older men in this village, are honest, well-to-do and laborious. . . . The father works and the son steals, for he wants to dress in the city fashion, he wants to revel, whereas everything is expensive and the father gives no money for luxuries. So they collude to rob. And this succeeded for 3 years, but finally it broke down. One of them went by night to a wealthy farmer and broke open a whole window, with the frame. The farmer threatened that the thieves would remember windows, but with iron bars. He brought

constables from Frampol and the investigation began. And it was not difficult to discover the thieves, for they called to each other: "You took this," and "You took that" . . . One got one year of prison, another half a year and three of them three months each.

—*Gazeta Świąteczna*, 1903, 25.[1]

The demoralization of the Polish peasants was more severe and voluminous as a result of their migration to America. In America they were confronted not merely with a new urban environment but also with an intensely fluid, individuating environment of the modern machine age. To say that the transplanted peasants were not prepared in experience to cope with the new complexities is putting the matter mildly. In this mobile, merchanized urban environment of the New World, cases of family dependency, bastardy, wife desertion, domestic discord, vagabondage, murder, theft, and sex delinquency mounted high.[2]

While murder of strangers and outsiders, for example, among Polish peasants in Poland was rare—although during the 1905–1906 revolutionary upheaval affecting principally Russian Poland, murder in towns suddenly increased—murder among peasants in America boomed. Thomas and Znaniecki suggested that the relatively extensive murder among Poles in America usually resulted from some trivial provocation as a reaction to seeming aggression in disorderly personal contacts. It became the means by which confused dislocated peasants, who no longer had the backing of a solid social group, warded off or fought off apparent encroachment and threat.[3] Most of the cases of murder, as cited by Thomas and Znaniecki, showed profound confusion, impulsiveness, and instability rather than intent, plan, or appreciable motivation, as did the following one.

John Iskierski, Murderer of Peter Wojdyla.—Frank Schneider testified that he had worked with John Iskierski for a year and saw the fight between Iskierski and Wojdyla: "We were making posts . . . and that man [Wojdyla] came and said [in Polish], 'You son-of-a-bitch, why do you come here and jump on somebody else's work. You are taking some one's bread away.' "

Charles Parcik testified: "Wojdyla called [Iskierski] a whore and a son-of-a-bitch. . . . John says, 'Get away from me. I have nothing to do with you. . . . If you won't go away, I will hit you one.' Wojdyla said, 'All right, come on.' Then I saw how John and Wojdyla ran in a fight. I saw him [John] hit him [Wojdyla] with his hand. . . . They caught each [other]. . . . Both of them fell

[1] Reprinted from *The Polish Peasant in Europe and America* by WILLIAM I. THOMAS and FLORIAN ZNANIECKI, Vol. 2, pp. 1176, 1177, 1180, 1181, New York, 1927, by permission of and special arrangement with Alfred A. Knopf, Inc., authorized publishers.

[2] *Ibid.*, pp. 1647–1821.

[3] *Ibid.*, pp. 1772–1773.

over against the wall. When they sit up again I didn't see any blood going down but saw blood on the back."

There was evidence that Wojdyla had been dismissed from the factory and that he had had a fight there once before. "He told every one a son-of-a-bitch." After this fight he lighted his pipe and walked away, but later collapsed and died.

—From the *Records of the Chicago Coroner's Office.*[1]

The disorganization of the Polish peasants in America apparently produced actual cases of demoralization among adults. In cases of juveniles, the social chaos seemed to produce amorality and wildness rather than demoralization. According to Thomas and Znaniecki, the cases of delinquent Polish children in large American cities displayed a surprising failure to have obtained a stable life organization from their families and neighborhood. Case studies showed them to have been swayed by mood rather than by custom. Delinquent Polish boys were observed to have grown up largely amoral, *i.e.*, without the normal inculcation of a moral code and standards of conduct. The failure of the immigrant's children to be given proper attention and care in the new environment comes out glaringly in the following prewar case of a delinquent Polish boy in Chicago.

Eddie Czalewski.—October 11, 1911, Eddie 7 years old, his two brothers and one sister were brought into court as dependent. There were two younger children at home. The officer testified that the parents of these children failed to give them proper care, that Tom and Joe had been getting their breakfast out of garbage cans, that they had been begging on the streets, etc., that the mother had let the children roam at will, the 4-year-old girl often in her night-gown, that the father was addicted to liquor and was arrested twice, that he had stolen a small bicycle once but that it was recovered and the case not brought into court. The father owned two houses and had two or three women, one that he had lived with in Indiana. He had other children besides these. The children used very vile language. The oldest boy was committed to the Working Boys Home. A year later it was learned that Eddie had stolen $30, but the family was living in Indiana. He had been very bad in general during this year, and while in Indiana he stole small articles in numerous stores.

When the family moved back to Chicago Eddie was called to court but ran away from home before breakfast. October 9th the boy was in court charged with repeatedly stealing things from Department Stores. There was trouble between parents and the boy took advantage of these conditions. Mother was tubercular. "Boy has been arrested in West Hammond for annoying neighbors and destroying property. . . . Parents have absolutely no control over boy who seems to resent all correction, but the father's idea of punishing the boy is to give him a beating and then not look after him for a long time." The boy had been

[1] Reprinted from *The Polish Peasant in Europe and America* by WILLIAM I. THOMAS and FLORIAN ZNANIECKI, Vol. 2, pp. 1764–1765, New York, 1927, by permission of and special arrangement with Alfred A. Knopf, Inc., authorized publishers.

absent from school in the previous term 164 days and this term has been only 6 days in school. Family underfed and environment very poor. Boy sent to Polish Manual Training School. He ran away the next day and was allowed to stay home on probation.

"November 20, 1913, boy seems much benefited by stay at Juvenile Detention Home. Is now attending school regularly and doing his best. . . . [He ran away again but was found.] Under normal home environment this child would be a normal child in school. Requested father not to punish so severely for not coming home direct from school. . . . [He played truant, saying he was abused in school.] November 9, 1914, talked to teacher in St. Andrews School. Boy continues to run away from school, has been out over a week this month. Boy seems immune to discipline. I am inclined to believe that possibly he is being punished too much in school. Sister said she would no longer keep the boy in school and wishes him brought into the Juvenile Court. The mother, whom I talked with, desires to give the boy another chance in the public school, as she showed me the black and blue marks on the boy's body where he had been punished in school.

"November 14, 1914, boy in public school but . . . continues to disturb the room by his conduct. . . . Owing to mother's physical condition [tubercular] she had no control over the boy. Is afraid to tell father as he beats boy unmercifully. Boy's teacher said that she could not keep boy in school any longer. . . . "

Arrested Nov. 27, 1914, on charge of stealing a horse from a barn after breaking the lock with a stolen hammer. Parents in court. Mother fainted twice. The interpreter stated, "This woman says the man is a brute. For the last 3 years she hasn't been provided for. He won't buy her medicine. He doesn't care for the children. One of the children is already in the reform school. She says she is unable to take care of herself. The man absolutely doesn't care if she would die tomorrow. [Only one of the children, Eddie, is working, and she is supporting herself out of that.] . . . Three weeks ago he gave her $10 and last week he gave her $5. The groceryman would not give him any more feed and he had to do that. . . . He has another woman here in Chicago and stays away 3 days at a time with the other woman."

The father said, "I am buying everything. I don't want to give the money to the woman. . . . I will have to be paying off this $1,000 mortgage. . . . This boy is working all summer and let him furnish the money to her." He was not willing to turn over to his wife the $16 rent he received each month from the two houses he owned. Eddie was sent to St. Charles Reform School.

—From the *Records of the Juvenile Court of Cook County.*[1]

The condition of amorality was observed to be not so prevalent among the delinquent Polish girls as among delinquent Polish boys. The reason was attributed to the fact that, even under disorganized family conditions among the recently immigrated Polish peasants in American cities, the girls were kept under closer supervision than the boys. In many

[1] Reprinted from *The Polish Peasant in Europe and America* by WILLIAM I. THOMAS and FLORIAN ZNANIECKI, Vol. 2, pp. 1782–1784, New York, 1927, by permission of and special arrangement with Alfred A. Knopf, Inc., authorized publishers.

instances, the delinquent Polish girl in the American environment was found to be revolting against the remnant restrictions placed on girls by the family as well as against detested, although traditional, house drudgery. Sex immorality among the delinquent girls of the Polish peasant immigrants in America appeared to be not so much physical gratification as the means to satisfy wishes in a larger and freer world, particularly the wish for new experience.[1]

In attempting to understand the disorganization and demoralization of the Polish peasant immigrants in the American urban environment, Thomas and Znaniecki contended that the full import of the following points needs to be appreciated:

> First, the peasant was adapted to the life of a permanent agricultural community, settled for many hundreds of years in the same locality and changing so slowly that each generation adapted itself to the changes with very little [illegible] or abstract reflection. Secondly, the peasant was not accustomed to expect unfamiliar happenings in the course of his life within his community, and if they came relied upon his group, which not only gave him assistance, when necessary, in accordance with the principle of solidarity, but helped him regain his mental balance and recover the feeling that life in general was normal in spite of the unexpected disturbance. Further, the peasant drew all his social stimulations, checks and suggestions from direct social contact with his milieu, and the steadiness and efficiency of his life-organization depended on the continuity of his social intercourse with his own group. Finally he was until quite recently a member of a politically and culturally passive class, did not participate consciously, even in the slightest measure, in any of the impersonal institutions that ever existed in his country.[2]

Negro Migrants from the Rural South

In many respects the status of recently migrated Negroes from the rural South in Northern cities of the United States resembles the plight of European peasants and Mexican immigrants in American cities, namely, that of a folk people unprepared for a machine-age urban civilization, showing signs of considerable disorganization and demoralization in a complex environment.

Frazier studied in detail the family disorganization accompanying the rush of Negroes from the rural South into Chicago in the war and postwar period. The most recent Negro migrants were found to settle in the poorest and most disintegrated neighborhoods of Chicago. The proportion of desertion and nonsupport cases, of Negro illegitimacy and

[1] *Ibid.*, pp. 1817–1820.

[2] Reprinted from *The Polish Peasant in Europe and America* by William I. Thomas and Florian Znaniecki, Vol. 2, p. 1824, New York, 1927, by permission of and special arrangement with Alfred A. Knopf, Inc., authorized publishers.

unmarried-mother cases, and of delinquency among Negroes in Chicago was discovered to have risen greatly as a result of the influx from the South. Interestingly enough, these indexes of family disorganization among Negroes were highest in the areas of recent Negro settlement and lowest in areas of more settled Negro life, *i.e.*, in areas containing Negroes who had lived in Chicago for a considerable time and had made a good adjustment to Northern urban conditions.[1] The picture is one of transition and not one of hopelessness, since it is presumed that, as the new migrants get adjusted to urban life of Northern cities, the amount of family disorganization and personal demoralization should decline.

In the poorer areas where the migrants settled, the high rate of dependency was accompanied by high rates of family desertion, illegitimacy, and juvenile delinquency. The decrease in all three forms of family disorganization in the successive zones coincided with the progressive selection of the more stable elements in the Negro population.

In the case of large numbers of southern migrants who came to the city, the customary and sympathetic bonds that had held families together in the rural communities of the South were dissolved when they were no longer supported by the neighborhood organization and institutions of the rural southern communities. Many had become disorganized in their wanderings before coming to Chicago. These families possessed no family traditions to bind the generations together and give continuity to life. On the other hand, in the better areas there had always been a small nucleus of families with some culture who had maintained standards and passed on to their children some social heritage. In some cases these families had the advantage of free ancestry. In other cases family traditions had been established by ancestors who had succeeded in accumulating property, or education, or had acquired some distinction that had given them status in their community. Accessions to this small group of families had constantly come through the more intelligent and energetic members of the Negro group who had succeeded in acquiring a higher status in the Negro population. While the city tended to dissolve established forms of social life and brought about disorganization, it had created an opportunity for more to escape from the condition of the masses. Many of those who had become emancipated from the old conceptions of life and had acquired new hopes and ambitions enriched the social heritage for succeeding generations.

The widespread disorganization of Negro family life must be regarded as an aspect of the civilizational process in the Negro group. It is not merely a pathological phenomenon. The stability of family relations, which one finds among the isolated peasant groups in the rural communities of the South, is not the same kind of stability which is achieved by the families in the areas of the Negro community in Chicago. In the latter case the Negro has learned to live in a more complex world. As the Negro is brought into contact with a larger world through increasing communication and mobility, disorganization is a

[1] FRAZIER, E. FRANKLIN, *The Negro Family in Chicago*, pp. 147–166, 181–203, 204–211, Chicago, 1932.

natural result. The extent of the disorganization will depend upon the fund of social tradition which will become the basis for the reorganization of life on a more intelligent and more efficient basis.[1]

Of eighty cases of Negro prisoners in Sing Sing prison, committed from New York City, selected for special study, it was shown that by all indexes this group had been rendered peculiarly unstable and demoralized as a result of attempts to live in a complex urban environment.[2] Among this group of offenders were found cases such as the following, which is one of a Negro boy from the rural South engulfed in the northward migrations.

At the time of his admission to Sing Sing Prison *A* was 17 years old. Born in Alabama, he was an illegitimate child whose mother died in his infancy and whose father died in the boy's early youth. The northward migration of Negroes a decade ago included this boy. Already he has lived in Vandergrift, Pa., Pittsburgh, Pa., Buffalo, N. Y., and New York City since leaving Montgomery, Ala.

Because he had to work, only 4 of the boy's 11 years of school age were spent in school. His work history shows that he was employed as a railroad laborer at Pittsburgh for half a year. He also worked as a steam-shovel helper for several Pittsburgh contractors. Why he left Pittsburgh is not known. Upon coming to New York he drifted to that section "where colored people hang out," where meals and lodging are cheap, and sociability less difficult. For two weeks he had been unable to find work of any sort. He neither drank nor gambled. His excessive hours of leisure were spent in pool rooms. On the day of the offense he was discharged from a job which he had secured the previous day and became desperate because of lack of money and no prospects of employment.

About 4 A. M. *A* entered a restaurant in a section of the Bronx inhabited by Negroes, went behind the counter, pointed a loaded revolver at the restaurant keeper, took $21.82 from the cash register and walked away. The restauranteur, blowing a police whistle, followed. A police officer commandeered an automobile and with the assistance of another officer apprehended the man. The money and a loaded revolver were found in his possession. He was sentenced for 5 to 10 years on the charge of robbery in the second degree.

The combination of all of the circumstances of *A*'s crime seems to leave little hope that he could overcome his handicaps. Perhaps he had expected just such an occasion to arise when he purchased the revolver in Pittsburgh, where in Wylie Avenue in the Negro district, revolvers were on open display in the numerous pawnshops. But, without parental supervision or home life, with only four years of the discipline of a formal education, with no vocational preparation, migrating from city to city unconsciously seeking to find a compensation for these

[1] FRAZIER, E. FRANKLIN, *The Negro Family in Chicago*, pp. 250–252, Chicago, 1932. By permission of The University of Chicago Press.

[2] REID, IRA DE A., "Notes on the Negro's Relation to Work and Law Observance," *Report on the Causes of Crime*, No. 13, Vol. 1, pp. 224–227, 233–236, 239–240, National Commission on Law Observance and Enforcement, Washington, D. C., 1931.

handicaps, he finally met the most insurmountable one—unemployment—and the fear of ultimate starvation in his newest city of residence.[1]

In analyzing the apparent increase in Negro demoralization in Pittsburgh as reflected in increased arrests and commitments, Dr. W. T. Root of the Western Penitentiary of Pennsylvania made the following penetrating statement.

The case histories of the Negroes in the Western Penitentiary show many of them to be unmarried floaters, coming from rural (often southern) communities since the war. It must not be forgotten that the Negro born outside of Pennsylvania is responsible for much of the Negro crime. We have relatively few Negroes in the Western Penitentiary who were born in Pittsburgh and thus grew up with compulsory education.

Many of our Negro criminals are floaters from the rural South or at least rural communities. Without education or a definite trade, with habits of mind and moral codes unsuited for a northern city, forced to live in close proximity to the most immoral and vice-infested areas of the city of Pittsburgh, the pertinent thing would probably be to show cause why all do not become criminal.

There can be no doubt that the Negro floater from the South, especially, tends to be of exceedingly low intelligence. The moronic nature of this group, plus urban conditions, plus northern methods and ways, plus the tendency for all other races to exploit him, make a very bad social, moral, and economic condition.

The Negro coming from the rural South is usually illiterate, which makes him unsuitable for many jobs; his lack of any trade training still further reduces the types of jobs open to him; while our caste system bars him from whole vocational fields irrespective of what his technical training or intelligence may be. Thus there are multiple reasons why the Negro suffers excessively from economic depression and fluctuations in the labor market.

The Negro criminal, then, is the victim of a vicious circle of social, biological, and economic causes; lack of education, no trade training commensurate with the intelligence he has; a set of moral, social, and leisure habits, adjusted to a rural southern community; a victim of caste, forced to live in discarded houses of the dominant race; restricted in employment and social opportunity, the Negro is forced daily to feel inferiority and humiliation in a thousand ways. All this must be given consideration in judging his status in the criminal world.[2]

In a predepression study of the Negro in Detroit, the factor of maladjustment of recent immigrant Negroes from the South was considered as very important in explaining the disproportionately high showing of the Negro in crime and delinquency as compared with the whites.

The high colored crime rate in Detroit is also to be traced, among other causes, to the abnormal increase of the colored population during the last few years and the failure of Southern Negroes to adjust themselves to a Northern Urban environment.

[1] *Ibid.*, pp. 227–228.
[2] *Ibid.*, pp. 243–245.

One of the maladjustments arises from the failure of the newcomer to realize his relationship with the "Law" in the North. Two colored police officers say that in the South the authorities are much more "easy-going" as regards crimes of Negroes when kept within their own race. Hence the Southern Negro is less likely to expect and understand what he calls "interference" by the police in his private affairs.

Living conditions for the Negro are worse in what is known as the St. Antoine district . . . The statistics show a disproportionately high number of arrests of colored people in this district, but in these three precincts the arrest rate for white people is also abnormally high, possibly because the region is vice-infested.

Overcrowding in this district induces more readily acts of violence. Many such crimes are hasty explosions due to quarrels which may even have their origin in good-natured joking. . . . Overcrowding, with the resulting lack of privacy which frequently makes members of both sexes occupy the same room, and the presence in the population of a majority of men are factors responsible for the large numbers of sexual crimes.

The colored child was a willing probationist, but he is likely to fail because of lower home standards and the floating characteristics of the colored population.

One striking fact is the large percentage of complaints on the charge of immorality registered against the colored girls. The chief probation officer for girls said there is much more prostitution among colored girls and that many of these children either live or seek recreation in houses of prostitution and are brought up in this atmosphere. She thinks it is especially true of those most recently come from the South among whom a different standing of morals seems to prevail.

In general, Judge Hulbert believes that it is the children of recently arrived colored families who are most likely to get into difficulties. Newcomers tend to move into the crowded St. Antoine district. He said that Northern Negro children are the least disorderly of any group of the city, and believes it is all a question of environment-home conditions, family training and economic status. He said "let any white boy be brought up in the same surroundings and he will be no different."[1]

Booms and Dislocations

The sudden transformation of a locality from a stable farming area to a highly industrialized region, or from one to another quite different type of settlement or occupation, is accompanied by considerable chaos and demoralization. The most sudden areal transformations assume the character of a boom, which in turn induces a rush of adventurous people into the land of opportunity. Following the discovery of one of the richest oil fields in east Texas in 1931, Gregg County, Texas, witnessed an oil boom and rush. Mr. Alfred E. Wells, who studied the relation of this boom to juvenile delinquency, found that prior to the boom period

[1] *The Negro in Detroit*, Section IX, "Crime," pp. 14–16, 46, 55–56. Prepared for the Mayor's Inter-racial Committee by a special survey staff under the general direction of the Detroit Bureau of Governmental Research, Inc., 1926.

very few offenders were called to the attention of the county court. During the boom years, a sudden increase in delinquency cases was observed by the court officials. Special study showed that these young offenders had largely issued from the three principal boom towns of the county and from families who came into the area with the rush.

Located in the heart of the East Texas oil field, Gregg County is estimated to have quadrupled its population and increased its wealth tenfold since the 1930 census. [All this as of 1936.] There is a twelve-mile stretch of highway on U. S. 80 in the northern part of Gregg County between Gladewater and Longview, two of the three principal towns of Gregg County. This twelve-mile stretch of highway has come to be known as the "Main Street of Texas." More traffic moves over this twelve-mile stretch of highway than over any similar road in the United States. Approximately 50,000 people live along this section of road.

Five years ago "Main Street" was a peaceful county road where ancient live oaks spread their leafy arms over the asphalt and threw a shawl of shade on its red clay shoulders. Occasionally one passed a comfortable, rambling farm house with wide, cool halls, set in groves of pine or oak. Today this sleepy highway appears as if some magician had waved his wand over it. The entire twelve-mile stretch is packed with a jumble of habitation and business houses dependent upon the oil industry. It is more heterogeneous than Canal Street [Chicago], perhaps it is richer than Wall Street. It has more restaurants than State Street [Chicago], more night clubs than Broadway and more gambling houses than Reno. It is a scramble of civilization.

"Main Street" is a fungus growth of the East Texas oil field, that gargantuan storehouse of oil, sixty miles in length and from one to seven miles in width with 20,582 wells sucking millions of barrels of oil from this pool. From Gladewater to Longview it is a solid stretch of business houses, trim cottages, shacks, filling stations, restaurants, churches, beauty shops, "honkytonks," beer saloons, supply houses, tent houses, barber shops, brothels, fine homes, and tourist camps.

Future historians will probably point to the East Texas oil field as the most fantastic industrial fantasy of this day and age. Its discovery came at a time when millions were out of work. Tales of many who came to East Texas on nerve when oil was discovered and remained to become wealthy would fill volumes which most fiction editors would discard as being too fantastic.

The discovery-well of the East Texas field was drilled near Henderson, in Rusk County which joins Gregg County on the south. A few weeks later on May 8, 1931 a gusher was brought in between Gladewater and Longview in the northern part of Gregg County. Since oil in these two wells was found in the same sand, prediction was very strong that all territory between these two wells would contain oil. This territory contained thousands of unleased acres, so the rush was on.

It was the greatest "black gold" rush of all time. Thousands of people could be found sleeping in cars along East Texas highways. Others had built themselves fires along under the pines, doing all their cooking over a campfire with only the boughs of the trees being used as a shelter. Shacks were hastily thrown

up. Beside each shack under construction would be found a family awaiting beside their household goods for carpenters to finish the work so they could move into their new home.

Very few cases [of juvenile delinquents] were brought before the court prior to the discovery of oil in 1931. [Analysis of 150 juvenile delinquency cases coming before the county court from 1931 to 1936, that is, for a five-year period following the discovery of oil in the county, showed that] the majority of these 150 cases came from Longview, Kilgore, and Gladewater, the three principal towns that form a triangle within Gregg County. Throughout the county there are many oil camps owned and operated by major and independent oil companies; highways that are thickly populated with houses of vice and corruption built every few feet; and leases where squatters have placed their tents and built their huts because there was no ground rent to pay, forming small communities on each lease with as many as three or four families living in one tent or hut. All this chaos which invariably accompanies a boom, seems therefore to have contributed to the increase of delinquency as the county emerged out of its former rural smugness. Because of the wild scramble for a place to erect a house, it was impossible to determine the exact addresses of the offenders. The individual houses were not numbered and the streets had no names. In going over the cases with the probation officer, it was apparent that the majority of the offenders were concentrated in and around, Longview, Kilgore, and Gladewater, the three towns which became the centers of the oil boom. Analysis of the 150 cases on record shows that the great majority of the offenders' families had moved into Gregg County after 1931, when oil was discovered. Only thirty-one of the 150 children had lived in Gregg County all their lives. Ninety offenders or nearly 60 per cent of the 150 had moved into Gregg County since the year 1931. Out of the ninety that had moved into the county, eighty were of the white race while only ten were of the colored race. While only 8 per cent of the white juvenile offenders had lived in the county all their lives, 45 per cent of the colored juvenile delinquents had lived in the county all their lives.[1]

Sudden deflations of the economic base of a region, just as booms, should be expected to be accompanied by social disruption, which in turn renders the affected population more liable to vagrancy and crime. Closely allied to areal deflations are drastic dislocations of population, which may be due to a variety of factors. For example, during the Tudor period of England, the wholesale demobilization and discharge of serving men and armed retainers of former feudal lords threw thousands into vagrancy and roguery. The enclosure of fields caused a heavy depopulation of the rural areas. Droves of friars and monastic servants were turned loose upon the road as a result of the suppression of the monasteries. From these and several other dislocations were recruited, according to Judges, all sorts of vagrants, rogues, and criminals, who

[1] WELLS, ALFRED E., *Juvenile Delinquency in Gregg County, Texas*, pp. 7, 9–11, 14–15, 17–19, 21, M. A. thesis, Colorado State College of Education, 1936.

gravitated to London and helped make the underworld at the time.[1] It is reported that the specialized rogues and criminals in Elizabethan London's underworld had about the same origin as the common vagrants, who issued from the streams of dislocation from countryside and elsewhere.[2]

Conclusion

The materials presented in this chapter have sought, by qualitative analysis, to uncover a general factor associated with the frequency of offenses in varying social situations. This general factor is not a cultural, racial, or individual factor. Rather, it is a sociological factor of stability, which expresses a relative condition of maintenance or perpetuation of a system of social regulations over the behavior of individuals.

The factor of stability was found to be present in undisturbed, isolated, homogeneous, unchanging, primary-group societies, such as primitive tribes, folk communities, agricultural villages, and religious sects. It was found to be absent or disappearing among peoples disturbed by change, impact, dislocation, migration, heterogeneity of population, and cultural clash of conduct norms.

The relative amount of stability of a social order is not offered as a cause for criminal behavior but merely as a background condition associated with the frequency of violation of important rules of society. Whether this factor can be refined and reduced to measurement, so as to compute the degree present in any society or situation, is a problem for future research. The advances in sociometric studies, especially among American sociologists, would indicate that the calibration of a condition such as stability of social orders is well within the range of possibility. All that can be said at present from qualitative analysis is that one should expect infrequent violations in stable and frequent violations in unstable social orders.

The reason why the relative presence or absence of stability is not offered as a cause of crime is that many individuals, if not the largest proportion of them, in an unstable social situation do not become offenders, and that some individuals become violators even in a very stable society. The point is merely that the opportunities or risks of an individual's becoming a transgressor are greater and more violators appear in unstable than in stable social orders.

[1] Judges, A. V., *The Elizabethan Underworld*, pp. xvii–xxvi, New York, 1930.
[2] *Ibid.*, p. xxvi.

CHAPTER IV

AREAL AND REGIONAL DIFFERENCES IN CRIME

Crime varies in volume and form by areas and regions. The locality differences in crime are indications of variations in the social situation or the social framework of crime. In general, areal and regional differences in crime, both in volume and pattern, are due to factors such as the varying social and legal definitions of offenses; prevailing sentiments of people toward illegal or offending behavior; prevailing facilities for law enforcement; the persistence of traditions or practices which conflict with the dominant moral and legal order of society; the amount of change, mobility, and disorganization; and the character of special types of persons or groups attracted to certain areas.

While sociologists strongly suspect that situational factors such as these operate to produce crime differentials, much research needs to be done in order to discover more exactly the range of locality variations in crime and the workings of the various factors that are responsible for the variations.

The materials for discussion of the spatial variations in crime fall into the following categories: frontiers, political borders, intra-urban areas, metropolitan regions, cultural regions, and rural versus urban communities. Although these categories do not exhaust the range of areal and regional variations, they do contain most of the best known spatial differentials in volume and type of crime and they have become the focus of important observations and research that have sought to uncover the situational factors associated with high and low incidence of crime.

Crime on the Frontier

Without presuming to define a frontier that would harmonize the different viewpoints of historians, sociologists, and students of government, we are interested here in that frontier that is created by the early stages of the intrusion of an advanced people into the territory originally occupied by a less advanced people, more often than not a people living in a tribal or folk state.[1] Consequently, we will not be referring to the

[1] This view of the frontier is in harmony with that of Leyburn, who made a study of social adjustments in certain frontier societies. Leyburn contends that the frontier is a region in which the incoming civilized people are forced to make "new adjustments to a raw environment," raw in the sense of raw nature and of proximity to uncivilized peoples. It is the "vanguard of penetrating civilization," and has resulted from

so-called political frontier—the frontier at the political boundaries of two countries. This sort of local situation will be reserved for discussion under crime on political borders.

There is strong suspicion that a frontier gradually passes when the social institutions and the moral and political order of the new occupation get established and the population becomes accommodated to the new order and fairly well stabilized in reference to it. In this sense the frontiers begin with the spill over of a dominant people into a land originally occupied by unadvanced people, who retreat from the invaders or who are subordinated by them, and end when a settled social order finally gets established. Such frontiers as these are an ancient phenomenon undoubtedly but they have markedly and dramatically accompanied the wholesale migrations, colonizations, and imperialism of advanced European countries since the end of the fifteenth century. In consequence, inactive, slumbering, isolated regions became frontiers—the Americas, Asia, Africa, and the islands of the Pacific.

Insofar as the unadvanced people are demoralized by the direct impact of the incoming advanced people, the suspicion is that violations of native law and custom are aggravated and violations of the code of the dominant order are induced. The native or the half-breed who runs amuck is a familiar stereotype to most of us. Plays, novels, moving pictures, and to some extent historical writings have dramatized the demoralization of native and half-caste individuals. But adequate anthropological and sociological studies of the demoralization of native peoples as a result of direct impact of a dominant people are pretty much lacking. One of the best studies that has sought to investigate this problem is *The Changing Culture of an Indian Tribe* by Margaret Mead, the findings of which have already been discussed.[1]

The young people of this remnant tribe were severely demoralized as a result of the impact with a white society that interefered with and dislocated their tribal life. The ordinary social controls of this native group were seriously weakened and shattered.[2]

The study of "Law and Order on Indian Reservations of the Northwest" by the United States Senate Committee also calls attention to the great personal disorganization of the natives as a result of white impact.[3] The Winnebago Indian, whose life history was edited by Paul Radin, indicates how severely he became demoralized by contacts with white society.[4]

migration and colonization. LEYBURN, JAMES G., *Frontier Folkways*, pp. 1–2, New Haven, 1935.

[1] See pp 29, 43–46.

[2] See pp 44–46.

[3] See pp. 41–43.

[4] *Crashing Thunder; The Autobiography of an American Indian*, ed. by Paul Radin, New York, 1926.

While it is suspected that the native criminality and demoralization are greatly increased by the enormous disturbances and dislocations of native custom and culture, it is suspected, too, that crime, lawlessness, and demoralization among the dominant invading group becomes blatant, especially in those frontiers of men's communities such as exploitative plantations and mining camps. But even in the frontiers of family pioneering, bad men, scapegraces, land pirates, renegades, and bandits arise out of the initial weakness of organized government and local institutional controls, or are attracted by the opportunities of escape and unrestraint in the interstices of an unsettled country and unestablished government.

Notorious Criminals on the Shifting Frontiers of the United States

The opening up of the backwoods country in the United States, of the Southwest, the Northwest, and the West furnishes abundant illustration of the lawlessness, disorder, vice, and crime on the frontier.

In the frontier days of the old Southwest of the United States (Kentucky, Tennessee, Mississippi, Alabama), following the Revolutionary War period, as the Indian danger diminished, the river and land pirates increased. Cave-in Rock on the Illinois side of the Ohio River above Paducah, Ky., became the center of river piracy from about 1795 to 1830. "Shortly after the Revolution was under way, renegades from eastern communities, corrupt stragglers from the American army, and villains who had had their brutal training in western wilds, began to seek the Ohio valley refuge from the more orderly and well-settled communities."[1] Samuel Mason, an American Revolutionary officer, and his sons were notorious in the Ohio River piracy and land piracy until about 1804.[2] The Mississippi River at this time was a trap for unwary boat traffic. "Since one bank was under Spanish and the other under American jurisdiction, either shore offered bandits a safe refuge from all pursuit on the other."[3] The wilderness of the Natchez Trace, the overland route of the Ohio River valley to Natchez, Miss., was infested with land pirates and marauders, the most notorious of which were Hare, the two Harpe brothers, Mason, and Murrel. The two Harpe brothers were sons of a Tory family who, under storm and pressure, fled to Tennessee about 1795 with their women. They lived with outlaw Indians, entered into the bad life of the frontier town of Knoxville, became rowdies, gamblers, thieves of horses and hogs, robbed, looted, and "made an ecstacy of

[1] Rothert, Otto A., *The Outlaws of Cave-in Rock*, p. 37, Cleveland, 1924.

[2] *Ibid.*, pp. 157–266.

[3] Coates, Robert M., *The Outlaw Years; the History of the Land Pirates of the Natchez Trace*, pp. 16–17, New York, 1930.

murder." They became known as the mad Harpes. They dashed in and out the wilderness, accompanied by their women, and were a terror to Tennessee and Kentucky. They even killed a befriending man's wife, baby, and guest, and burned his house afterward.[1]

After Texas was opened up, the free and easy manner of life, the freedom from restraint, the development of a cowboy man's world likewise produced frontier disorder, lawlessness, and crime, which finally called the Texas Rangers into existence to track down and suppress outlawry and banditry. Perhaps the most notorious Texas bandit was Sam Bass, if persisting tales, legends, and ballads are an indication of criminal notoriety. Born in Indiana in 1851, he became a Texas cowboy, participated in the usual American man's community activities of gambling and horse racing, and finally turned bandit and outlaw of wide range in the new Southwest, holding up stagecoaches and Union Pacific trains. His meteoric career ended in 1878. Accounts of his life and activities impress one with the fact that the steps of advancement from the happy-go-lucky frontier cowboy existence to outlaw were purely normal and opportunistic, requiring little or no criminal maturation.[2]

Again, if saga and tales are an indication of the status of a man, Billy the Kid was undoubtedly the most notorious heroized outlaw of the American Western frontier with the possible exception of Jesse James and his gang, to whom mention will later be made in terms of the development of renegades and bandits out of political strife and civil war.[3] Billy was born in New York City in 1859, moved to the West as a very young child, and killed his first man at twelve. One of his biographers, the sheriff who finally killed him, contends that he was a tempestuous lad but really not criminal.[4] He was, in other words, a free spirit in a man's world of the American West, where it was merely a question among men who were "quick on the trigger" whether they were on the side of the law or out for themselves in outlawry. And as far as philosophy and scheme of life were concerned, no fundamental difference is discernible between those who were on the side of the law, such as sheriffs, deputies, and posses, and those on the other side of law. After a tempestuous career, which gained him the reputation of being a most daring outlaw, quick and deadly on the draw, he was killed in 1881.

In Cochise County, Arizona, during the decade 1877 to 1887, there was a notable aggregation of bad men and outlaws. When the Tombstone mining camp opened in 1877, following an "ore strike," a con-

[1] *Ibid*, pp. 21–70; also see Rothert, *op. cit;* pp. 55–156.

[2] See GARD, WAYNE, *Sam Bass*, Boston, 1936.

[3] See p. 125.

[4] GARRETT, PAT. F., *The Authentic Life of Billy the Kid*, ed. by Maurice G. Fulton, New York, 1927, originally published in 1882.

glomeration of men flocked to the scene from all parts of the United States. One popular historian of the annals of the period is authority for the statement that in the years 1881–1882 not less than 200 outlaws preyed on Tombstone and its county environs and about twice that number were neutral, meaning that they were on the side of the law.[1]

Much cattle rustling and looting, typical crimes of the American Western frontier, were in evidence in Cochise County. The outlaws ran in gangs and the peace officers and the law were most ineffective. Many of the local outlaw elements lived on the fringe of settlement, in camps along the Mexican border, where they preyed also on Mexican smugglers. Law and order in Cochise County were severely handicapped by the fact that some of the peace officers fraternized with the outlaws and participated in their practices. And the higher officials of the law, so it is claimed, could not trust subordinates with orders because of this fact.[2]

When Oklahoma Territory was opened up in 1887, the adventurous "wild" spirits were attracted to the scene. According to the account of the United States marshall at the time, few of these men "had the inherent qualities which make outlaws and criminals but many of them became outlaws and criminals when civilization tried to force them to adapt themselves to a routine of existence that they deserted with all the energy they possessed."[3] The same observer makes certain pointed, although perhaps sentimental, comparisons between the manliness of the Oklahoma outlaw of 1889 and the modern American gangster today. "As one who fought him (the outlaw) to extinction, I must admit that I admire his sportsmanship, when I think of the vicious and cowardly tinhorn holdup man of today. I don't believe Bill Doolin (one of the famous local outlaws) ever shot a victim in the back and I know he didn't make a practice of robbing needy individuals of their petty all."[4]

The activities of the Dalton brothers' gang may be taken as typical of this American Western frontier. Two of the brothers had been officers in Indian Territory but had engaged in several minor depradations against the possessions and property of the incoming settlers in Oklahoma Territory. A third brother joined them and they extended their operations into wholesale horse stealing, train holdups, and bank robberies. The Daltons would "pull a job" and then drop out of sight for a time. Their activities as a gang lasted from 1891 until 1892, when four of the gang were killed and one captured.[5] Bill Doolin, a former member of

[1] WALTERS, LORENZO D., *Tombstone's Yesterday*, p. 12, Acme Printing Co., Tucson, Ariz., 1928.

[2] *Ibid.*, pp. 14–15.

[3] NIX, EVERETT DUMAS, *Oklahombres, Particularly the Wilder Ones*, p. 15, copyright by E. D. Nix, no publisher listed, 1929.

[4] *Ibid.*, p. 270.

[5] *Ibid.*, pp. 33–54.

the Dalton gang, continued on as leader and was joined by Bill Dalton, still another brother of the others, who was a deputy before he turned outlaw. Doolin and Dalton engaged in bank robberies and train banditry and were finally suppressed in 1896.[1]

It is apparent that as each region of the United States opened for pioneering, and for the inrush of a new occupation, the early days of the new invasion, prior to the establishment of social and legal institutions, were the scene of lawlessness and outlawry—gambling, prostitution, hard drinking, cattle thieving, marauding, looting, banditry. Outlawry seems to have been one outstanding vocational outlet—a venture, just as other activities on the frontier were ventures. The circumstances of the frontier made outlawry more of a normal career and less of an abnormal criminal vocation, pretty much as piracy on the seas was a normal vocational outlet and venture in a period of lucrative exploration and uncontrolled commerce. The difference between the morals, attitudes, activities, and scheme of life of the outlaws and nonoutlaws and of pirates and nonpirates cannot be so sharply drawn in these unchartered areas of free play of human forces as between those of criminals and noncriminals in areas of established institutions and sociolegal controls. Consequently, outlawry and lawlessness on the frontier, as well as freebooting on the high seas, have the appearance of being very normal outlets for opportunistic adventures in an area of free and uncontrolled activity. When the frontier acquires settled law enforcement, policing, and established social institutions, outlawry begins to dwindle and practically disappear, just as piracy has practically disappeared with regularized trade.

Borders and Outskirts

The political boundaries of nations, states, counties, and cities quite frequently in times past have been the localized seat of lawlessness, illegal activities, and contraband. In some instances, the border conditions have attracted bold spirits who take advantage of the situation to ply an illegal or illicit trade. In other instances, the outskirts of political units have provided a means of refuge for activity and practices which have been sternly suppressed within the limits. In still other instances, the relaxation of legal control and the uncertainty of legal jurisdiction at political borders proves to be a very easy moral climate in which illicit practices can survive.

The characteristic type of crime at national borders is smuggling. When the United States instituted its experiment in prohibition, much "rum running" was done off the Atlantic Coast and on the Canadian and Mexican borders. During this period Mexican, Cuban, and Canadian border towns became havens for American revelers. When horse racing

[1] *Ibid.*, pp. 55–64, 103–116, 133–143, 181–188, 195–199, 213–220.

and gambling were suppressed in many Western and Southwestern states, Mexican border towns flourished with American trade. McNulty made the following observations on drug smuggling along the United States-Canadian border in 1924:

> There is no section of the international boundary regarded as hazardous by the smuggler of narcotics; the section recognized by all as the safest, however, is that extending from the Atlantic, westward as far as Rouse's Point. The customs officers are so few that they scarcely attempt to intercept the speeding motor cars which flash by under cover of darkness.[1]

Narcotic smuggling has been one of the most persistent forms of organized crime along the borders of modern countries. To a much lesser extent, the smuggling of prostitutes into countries has been a visible problem for international border control. The illegal entry of persons and goods into countries, past customs and passport authorities, is likewise notorious in many parts of the world and greatly taxes the ability of modern governments to contend with the problem.

While smuggling is usually thought of in terms of illegal entry, notice should be taken of the fact that it very often involves illegal exit. In Germany today, hard-pressed for currency and trade balance, the taking of money, gold, and valuables out of the country by citizens has been seriously curtailed and even placed on a quota. When in 1276 a heavy export duty was placed on wool, shipped from England to the Continent, much coastal smuggling developed.[2]

When governments place export and import restrictions and taxes on goods, many persons who seek to carry on their traditional occupational pursuits unhampered by regulations become violators. Frequently, whole sections of a coastal border resist the interference of government and become engaged in smuggling, while the local sentiment of the people supports smuggling and protects the smugglers against government agents. In some instances the local community mobs revenue officers and the local authorities and abets the people's cause against the government. When a revenue man attempted to arrest a body of "owlers" (smugglers) in the Romney Marsh district of England in 1688, the local mayor, before whom he took the culprits, let them go on bail. "For what mayor of Romney in those days would dare not deal leniently with these fellows! Nay, it was abundantly probable that the mayor himself was financially committed in these ventures."[3] To complete the episode, the revenue officer and his men hurriedly left Romney and went to Lydd,

[1] McNULTY, WILLIAM J., "Drug Smuggling from Canada," *Current History*, Vol. 21, p. 95, 1924–1925.

[2] TEIGNMOUTH, LORD and CHARLES G. HARPER, *The Smugglers: Picturesque Chapters in the History of Contraband*, Vol. 1, pp. 20*ff*., London, 1923.

[3] *Ibid*., p. 22.

but a mob of owlers attacked them at night. The government agents retired to Rye, were pursued hotly across the marshes, and barely escaped with their lives by boats. Teignmouth also cites an instance of a group of Hawkhurst smugglers in Kent, England, who in 1774 abducted a customs officer and three of his men. The smugglers wounded the officer, carried all four to Hawkhurst, tied two of them to trees (former smugglers who had turned informant), and whipped them almost to death.[1]

Of all counties in England, it is claimed that Kent, with its proximity to the channel, with its marshlands, cliffs, wild broken ground, and large masses of woods, is situated most advantageously for the perpetuation of smuggling. In times past, according to Teignmouth, "the peasantry aided the smugglers, often received a good day's work or a jug of Hollands from friendly smugglers. The court clerks and the church sexton willingly opened vaults, vestry, or church to store passing goods. The clergyman shut his eyes if he saw tubs or jars in his way; and it is remarkable what good brandy-punch was generally to be found at the house of the village pastor. The magistrates and officers of seaport towns were in general so deeply implicated in the trade themselves that smuggling had a fairer chance than the law in any case that came before them."[2]

The political outskirts of the city have been fringes of lawlessness in many instances throughout history. The inns about ancient Rome, according to Friedlaender, were often places of ill repute. "Jurists are constantly mentioning that the servants at inns, in town and country, consisted of cheap girls and the inn-keepers were unprofessed panders. As panders and for other reasons, inn-keepers had an ill repute. On the list of the police-soldiers, they were inscribed with thieves and gamblers."[3]

The walls and gates of medieval towns were collecting places of vagrants, beggars, prostitutes, and criminals, often excluded from life within the confines of the cities. "Repeatedly the citizens of (medieval) Antwerp are charged not to go to Damburgee, Mercexm, Berchem, and other places just outside the town to drink there, for this enabled them to drink without paying excise in the town."[4]

In modern American cities, roadhouses, gambling and vice resorts, places of illegal sale of contraband articles and services can be found basking in freedom from effective law enforcement on the fringe of the corporation limits. In a study of Chicago's suburban lawlessness,

[1] *Ibid.*, pp. 51–52.

[2] *Ibid.*, p. 115.

[3] FRIEDLAENDER, LUDWIG, *Roman Life and Manners under the Early Empire*, translation of the seventh enlarged and revised edition of the *Sittengeschichte Roms*, by Leonard A. Magnus, 2d. ed., Vol. I, p. 293, London and New York, 1909.

[4] WEGG, JERVIS, *Antwerp* 1477–1559, p. 79, Methuen & Co., Ltd., London, 1916.

Reckless found that roadhouses, catering to the license of Chicago townsmen, occupied a belt along the highways as far as 50 to 60 miles from the center of the city. It was found that the roadhouses depending upon violation of city ordinances or state laws for their existence managed to locate themselves in the most advantageous places for evasion of law enforcement, particularly in the interstices of well-ordered suburban communities, and of state, city, county, and township lines.[1] The suburban hinterland of Chicago became the spill over for organized vice, gambling, bootlegging, illegal race tracks, and criminal fences, at times when law-enforcement campaigns within the city were waged and when organized crime within the city began to look for more extensive lucrative territory. As the hinterland began to be opened up and exploited for organized criminal syndicates from Chicago proper, the same tactics and practices that characterized the intramural organized crime in the American city of the last twenty years became apparent on the suburban fringe—intimidation of independent enterprises, coerced alignment with a vice, gambling, or bootlegging syndicate, the fixing of prices and services, election grabs, and the immunization of members of the syndicate from legal interferences.[2]

While the hinterland around the large American cities has become a notorious rendezvous of illegal and illicit practices, it is true also that automotive communication with good roads has enabled the extension outward from the city of many forms of professional crime to small towns and hamlets—chain-store robberies, bank robberies, and fences disposing of stolen automobiles.

Although it is easy to lay the blame for the exodus of crime and prevalence of lawlessness in the hinterland of large metropolitan communities on the lack of effective policing and law enforcement, it is also true that the region is witnessing disrupting changes and new incursions from the dominating urban center, which give the suburban fringe of large cities the character of a new frontier and an area of transition in which crime and lawlessness would be expected to find a field of operation.

> The first zone in the metropolitan area beyond the city limits has all the characteristics of a frontier. Here industries that were crowded out of the city are finding new locations; residential suburbs are growing up along the lines of transportation. The original inhabitants are moving out, or preparing to. Everything is new and unsettled. Like the area about the central business area in which the city slums are usually located, it is an "area of transition," and an area of demoralization, also. In both cases an older type of community organization has disintegrated; both areas await the advance of a new type of urban organization, but in the meantime they have become the rendezvous of those who

[1] RECKLESS, WALTER C., *Vice in Chicago*, pp. 122–126, Chicago, 1933.

[2] *Illinois Crime Survey*, pp. 853, 900, Chicago, 1929.

practice vice and crime. In neither case is there a public opinion, which when locally aroused, demands repression and law enforcement. Indeed the underworld at both the center and circumference of the city comprises almost the only well-developed organization for corporate activity in these interstitial areas. The roadhouses outside Chicago, for example, cluster together, forming small communities in a hinterland of sparse population and disintegrating rural settlements.[1]

Crime Areas in Cities

Sociologists have more or less recently subjected to study what has heretofore been an obvious fact, *i.e.*, that various population groups and forms of activities assume special distributions or locations in cities and that local areas become known by or develop a reputation for their characteristic social atmosphere. Familiar to most of us are special business quarters, ghettos, alien and racial colonies, slums, rooming houses, homeless men's areas, artist colonies, bright-light areas, red-light areas, elite residential areas, and so on. American sociologists have come to think of these visible urban areas as natural areas, meaning thereby that the areas grew to be what they are from a combination of many social, economic, and political forces and factors operating to produce the localization or segregation.[2] In times past, when kings and despots decreed localization of certain activities or types of people, or in present times, when social planning and governmental control zone areas or plant areas, the impression may have arisen that special segregations or localizations of people and activity are produced artificially. But study usually shows that the forces making for natural clusterings and segregations have been at work previous to and after prescription.

Charles Booth's monumental field survey of *Labor and Life of the People of London*, more than a generation ago, as well as Henry Mayhew's antecedent field studies on *London Labour and the London Poor*, gave eloquent evidence of the fact that a great mosaic of natural areas existed in the big city, areas of varying degrees of economic, social, and moral composition. In his study of *Female Delinquency* in Naples (1904), Ettore Botti introduced his observations on the distribution and localiza-

[1] Reckless, Walter C., *Vice in Chicago*, p. 130, Chicago, 1933. Reprinted by permission of The University of Chicago Press.

[2] Studies issuing from the ecological approach to urban sociology, which developed at the University of Chicago in the twenties, give ample evidence for the special natural distributions of types of population, problems, and activities and for the existence of visible natural areas in the configuration of the urban community. See, for example, Robert E. Park, *et al.*, *The City*, Chicago 1925; Nels Anderson, *The Hobo*, Chicago, 1923; Harvey W. Zorbaugh, *The Gold Coast and the Slum*, Chicago, 1929; Frederic M. Thrasher, *The Gang*, Chicago, 1927; Ruth Shonle Cavan, *Suicide*, Chicago, 1928; Ernest Mowrer, *Family Disorganization*, Chicago, 1927; Walter C. Reckless, *Vice in Chicago*, Chicago, 1933.

tion of prostitution in Naples by a statement that likewise lends support to the principle and fact of natural segregation. He said that "in a city as large as Naples, the various quarters assume a special configuration; the localization takes place spontaneously from quarter to quarter, so that the local topography presents a most interesting comparative study of various social phenomena."[1]

Localizations of vice and crime have been visible in most cities of the ancient and modern world. Popularly they have been known as underworlds, in recognition of the fact that the habitués of such areas live in a world socially below and separate from the dominant moral order and follow a scheme of life that has heretofore represented a low caste. While all prostitution and crime were by no means confined to these urban bad lands, the congregation of criminals, pseudo criminals, and habitués of vice dens was large enough to be sufficient for characterization as underworlds.

Traditionally, the bad lands of crime and vice in European and American cities usually have occupied a central or near-central location, *i.e.*, in and around the central business district. But with strong measures of suppression and governmental control, this natural habitat is often disturbed. Modern means of communication, making all parts of an urban community readily accessible, have likewise enabled prostitution and crime to be practiced over a wider urban area.

The distribution of commercialized vice in Chicago showed an increasing trend toward decentralized location in a twenty-year period, due to suppressive measures and greater accessibility of less-centralized areas through rapid transit and the automobile.[2] It is suspected that, in those cities where vice resorts must find locations in which they can best survive rather than being accorded a special institutionalized quarter, commercialized prostitution invades such parts of the city as are weak in the social influences that can drive it out. Again, taking Chicago as an example, it was discovered that the areas housing vice resorts were characterized by disproportion in sexes, low concentration of children, high concentration of adults, low percentage of home ownership, and high concentration of Negroes; and the highest concentration of vice resorts was found in areas with the highest rates of social problems, such as adult crime, juvenile delinquency, prohibition violations, divorce, poverty, and venereal disease.[3] All these characteristics point to the fact that prosti-

[1] BOTTI, ETTORE, *La Delinquenza femminelle a Napoli*, p. 148, Napoli, 1904. "In una citta immensa come Napoli, i varii quartieri assumona una speciale fisonomia; la selezione si compie spontaneamente da quartiere a quartiere, siche la topografia locale si presta al piu interessante studio compartivo dei varii fenomeni sociali."

[2] RECKLESS, *op. cit.*, pp. 10–12, 164–173.

[3] *Ibid.*, pp. 196–197, 232–233

tution finds quarter in areas of disturbed or disorganized family and community life, which are not equal to combatting the invasion.

It is suspected also that the areas housing the residence of criminals as well as criminal haunts and hangouts are less confined and more scattered than areas housing commercialized vice, although considerable interlocking between commercialized vice, activities of criminals, and professional and organized crime is indicated. The areas of Chicago that contained 100 per cent of the discernible vice resorts in 1920 possessed only 72 per cent of the residences of adult male criminals in the local jail.[1]

In studying the comparative area distribution of vice and crime in any city, one is led to expect that the activities, residences, and hangouts of criminals will be more widely scattered throughout the city than the resorts of prostitution, since crime, even in its organized and professional form, is not so confining in location as is the business of prostitution. One might go so far as to assume that modern methods of transportation, modern machine technology, and the forces producing urban anonymity have worked to give the professional criminal a greater area of operation and a greater latitude of activity than the professional prostitute. For, again prostitution cannot be as mobile as professional crime; it suffers from greater disabilities than professional crime. Prostitution under chain management of syndicate control approximates more nearly the mobilization that gambling, criminal fences, racketeering, bootlegging, and drug traffic assume under organized crime.

That crime and delinquency vary greatly in volume and type by areas of cities has long been recognized. For example, the 1837 report of the metropolitan police of London called attention to the following area variations in types of offenses: the largest proportion of drunkenness, prostitution, and vagrancy was found in St. James parish; common larcenies were most numerous in Clerkenwell; highway robberies, burglaries, house and shop breaking occur most frequently in suburbs such as Whitechapel, Southwark, Lambeth, Mile End, and Poplar; larcenies in a dwelling house, Whitechapel; larcenies from the person, Covent Garden; common assaults, Covent Garden and Clerkenwell, and so forth.[2] However, in recent years an attempt has been made to demonstrate the differences in areas of large American cities according to the rate of reported criminal residence.

Beginning with data from various series of juvenile and adult offenders in Chicago, Shaw found, for example, that the rates of adult male offenders (1920 Cook County jail cases) per 100 males seventeen to forty-four years of age varied by square-mile unit areas all the way from 0.15 to 5.16; that the rates of youthful felons seventeen to twenty-one years of age

[1] *Ibid.*, p. 214.

[2] *Journal of the Statistical Society of London*, Vol. 1, p. 97, 1839.

(1924–1926 Boys' Court cases) per 100 population male population seventeen to twenty by square-mile unit areas ranged from 1.2 to 28; that the rates of delinquent boys taken to the Juvenile Court (1917–1923) per 100 boys population ten to sixteen years of age varied by the same square-mile unit areas from 0.8 to 19.4, that the unit area rates for female juvenile court cases per 100 female population ten to sixteen varied from 0.1 to 9.[1] The square-mile areas in Chicago which had high rates in one series had high rates in the other series, and vice versa, as shown by the very high coefficients of correlation of area rates by variously paired combinations.[2]

Consequently, a certain consistency in the area variations of the incidence of residence of various types of offenders is to be inferred, *i.e.*, an area that had a high rate in one series would be likely to have a high rate in other series, and an area low in one series was likely to be low in other series.

It should be understood that these area variations in rates are based on the incidence of residence of offenders and not on the incidence of the place of violation. Perhaps it would have been more accurate to speak of the rate of criminal or delinquent residence rather than a rate of delinquency or crime, which might refer to the amount of violation officially recorded as taking place in an area. The extent to which areas high or low in residence of offenders are high or low in volume of crime cannot be answered from the present state of knowledge, although the suspicion is that there is considerable connection. For crime in general, it might be assumed that an area high in criminal residence presents greater opportunities for violation to individuals living within as well as without the area than does an area low in criminal residence; and an area low in criminal residence affords fewer opportunities for violation than an area high in criminal residence, in spite of several exceptions, such as criminals preying heavily on areas that have very little criminal residence.

While crime and delinquency were shown to vary greatly in intensity from area to area in Chicago, Shaw also demonstrated by a set of radial and zone rate maps that the rates of delinquency and crime were highest at the center of the city and progressively declined with few although accountable exceptions, with increasing distance outward from the center. In other words, areas in and around the center of the city apparently produced or attracted more offenders who were caught than did areas away from the center. Such a conclusion would certainly be substantiated by the general observation that in unplanned cities, cities in other words which just grew, the disorderly, deteriorated, and disorgan-

[1] SHAW, CLIFFORD R., *et al.*, *Delinquency Areas*, pp. 131, 111, 88, 152, University of Chicago Press, Chicago, 1929.

[2] *Ibid.*, pp. 93, 116, 136, 157.

ized areas are those in and around the center, and the more orderly and better organized residential neighborhoods are away from the center.

Not content with the demonstration of the centrifugal decline or centripetal increase in area concentration of offenders in Chicago, Shaw tested the conclusion by a study of the area distribution of residences of juvenile delinquents in six additional American cities: Philadelphia, Pa.; Richmond, Va.; Cleveland, Ohio; Birmingham, Ala.; Denver, Colo.; and Seattle, Wash.[1]

"In each of the cities the rates show a general tendency to decrease from the central business district outward to the periphery."[2] Using methods of plotting delinquency residences by areas, Hayner in a special analysis of Seattle data found that the highest rates persisted in the central districts of the city of lowest rates, while the lowest rates persisted in the decentralized residential sections.[3] Longmoor and Young showed by isoplethic charting of area delinquency rates in Long Beach, Calif. (by contour lines encircling levels of delinquency concentration) that the highest rates were located in the near-central slum areas and the lowest rates in the decentralized, well-ordered residential neighborhoods.[4] White found that crime gradients in both felony and misdemeanant cases held true for Indianapolis—in other words, that the rate of crime was highest in the central zone of the city and decreased outward from the center by concentric mile zones.[5]

According to a study by Burt, the various boroughs of London likewise showed marked variation in juvenile crime rates, as based on the number of 1922 and 1923 cases sent from these areas to correctional schools in proportion to the number of school children. The buroughs of highest rates of juvenile delinquency such as Finsbury, Holborn, Shoreditch, were around the center of London—the old city—and are themselves the oldest sections of London. They are the "darkest spots for crime" generally. The regions comparatively free of juvenile delinquency—besides the central city, which has little residential popula-

[1] SHAW, CLIFFORD R., and HENRY D. MCKAY, "Social Factors in Juvenile Delinquency," National Commission of Law Observance and Enforcement, *Report on the Causes of Crime*, No. 13, Vol. 2, pp. 140–188, Washington, D. C., 1931.

[2] *Ibid.*, p. 188.

[3] HAYNER, NORMAN S., "Delinquency Areas in the Puget Sound Region," *American Journal of Sociology*, Vol. 39, p. 316, 1933.

[4] LONGMOOR, E. S., and E. F. YOUNG, "Ecological Interrelations of Juvenile Delinquency, Dependency and Population Mobility: A Cartographic Analysis of Data from Long Beach, California," *American Journal of Sociology*, Vol. 41, pp. 598–610, 1936.

[5] WHITE, R. CLYDE, "The Relation of Felonies to Environmental Factors in Indianapolis," *Social Forces*, Vol. 10, p. 501, 1931–1932.

tion—were found to be in the residential suburbs, such as Hampstead, Stoke Newington, Wandsworth, and Lewisham.[1]

Characteristics of Areas of High Delinquency in Cities

Through the use of several social and economic conditions, Shaw was able to call attention to the basic socioeconomic characteristics of areas in Chicago that have consistently high delinquency and crime rates. He found that areas of high delinquency in Chicago were in and around the areas of industrial concentration; were areas of physical deterioration as judged by the spot-map concentration of condemned buildings (condemned as unfit for use); were areas of declining population, declining because residential population was being pushed out by commercial and industrial invasion; were areas of high economic dependency (family relief or charity cases); areas of high concentration of foreign-born and Negro population groups, faced with making adjustments to a large American city, and areas that have witnessed a succession of these alien and racial population groups; and, finally, were areas of high disintegration of local neighborhood life. The areas of low delinquency manifest almost the exact opposite of the characteristics of areas of high delinquency. While Shaw did not verify these basic situational characteristics of high and low delinquency areas in other cities, the presumption is very strong that most of the features, all of which point to a relative state of local disorganization, would obtain in them also.[2] Shaw also contended that the areas of high delinquency "not only fail to provide a sufficiently consistent cultural background and neighborhood organization for the development of desirable forms of behavior, but that they possess many elements that contribute directly to the formation of delinquent habits and attitudes among the children. It appears that in many cases the delinquent and criminal behavior of the boy represents an adjustment to the traditions, behavior standards and expectations of the neighborhood group with which he has contact."[3]

In his Indianapolis study, White showed that indexes to basic social conditions also assumed a gradient distribution from the center of the city outward, as did the crime and delinquency rates. These indexes of differential socioeconomic level and composition of the Indianapolis zones are given in the table on p. 74.

Zone I, being the highest crime zone, is also a zone of greatest disintegration, instability, and dependency as measured by such indexes as the highest proportion of single men and the highest poverty and death

[1] Burt, Cyril, *The Young Delinquent*, pp. 67–76, New York, 1925.
[2] Shaw and McKay, *op. cit.*, pp. 60–108.
[3] *Ibid.*, pp. 138–139.

rates. Zone V, being the lowest in crime, has at the same time the most favorable indexes for orderly, stable life. Running a multiple correlation for the relationship between crime rate, rates of family welfare cases, and percentage of land used for business by the several minute census tracts of Indianapolis, White found a coefficient of +.849 which indicated that crime varied in area volume very closely with the variation in the intensity of these indicators of neighborhood stability and instability.[1]

DISTRIBUTION OF FIVE SERIES OF SOCIAL DATA IN INDIANAPOLIS BY ZONES[a]

Zone	Rates for family welfare cases	General mortality rates	Per capita contributions, cents[b]	Per cent males single	Per cent of land for business purposes
I	30.0	15.1	5.9	35.5	34.7
II	17.9	13.0	9.6	31.0	20.7
III	12.8	10.2	8.7	27.3	13.8
IV	6.5	9.5	34.1	22.3	6.4
V	3.2	8.7	80.4	20.4	3.1

[a] WHITE, R. CLYDE, *op. cit.*, p. 503.
[b] To the Community Fund.

In his analysis of the distribution of delinquency in the various boroughs of London, Burt found that it correlated highly with the poverty distribution, with overcrowding, and with death rates, all of which indexes would be in line with conditions of disintegration which Shaw found associated with areas of high delinquency rates and unassociated with areas of low delinquency. Describing one of the London boroughs of high delinquency, Shoreditch, Burt called attention to the fact that the area is still pretty much as Charles Dickens painted it for Oliver Twist's story—an area "lined with foul and frowsy dens, where vice is closely packed, and lacks the room to turn—the haunts of hunger and disease, and shabby rags that scarcely hold together." Burt goes on to say that "those more intimate with this neighborhood—where Irish, Jews, and Italians mingle with the lowest type of English loafer—will realize how suitably these places lie and how centrally disposed the whole quarter is, as a strategic basis for nefarious designs."[2]

[1] WHITE, *op. cit.*, p. 506.
[2] BURT, *op. cit.*, p. 69.

CHAPTER V

AREAL AND REGIONAL DIFFERENCES IN CRIME.—(*Continued*)

Studying the problem of juvenile delinquency in New York City, Robison contended that, among other factors, local community, institutional, and group conditions increase or diminish the registration of delinquency cases to so large an extent and have such a differential effect that any attempt to use rates to indicate area differences could not be considered valid.[1] The fact is, however, that in criminological research at present there is no way of telling what the true volume of crime or delinquency is in any given locality, since the reported incidence is due not so much to the nature of the behavior of offenders as to factors, circumstances, and facilities that keep violations from coming to official light or make them officially known. And in using rates of incidence by areas, Shaw and others are not assuming that they are absolute measures of behavior uninfluenced by many situational factors. He assumes that they are measures of behavior relative to prevailing circumstances that bring delinquency to light and that areas vary in the very circumstances and factors that cause behavior, defined as delinquent by prevailing laws, customs, and sociolegal machinery, to come to the surface. In some areas of the city more behavior of this sort becomes known and officially acted upon than in other areas. If circumstances in any area change in regard to holding cases back from official light, then a new local definition of delinquency has arisen and the local community is overlooking behavior that once was considered ground for official reporting or handling. Such conditions are expected to influence the amount of delinquency, but they also influence the character of the area, making it a different area. However, besides assuming the operation of factors that locally determine the definition of delinquency and bring violations within the definition to light, Shaw also assumes that urban areas vary in the presence of stabilizing or undermining social and economic conditions that likewise have a profound effect on delinquent and nondelinquent behavior of children.

Place of Crime and Residence of Offenders

More important than Robison's criticism of the factors that influence the magnitude of delinquency rates in urban areas are the factors that concern the mobility of offenders, the place of crime, and the distance

[1] Robison, Sophia Moses, *Can Delinquency Be Measured?* pp. 204–210, New York, 1936.

from residence to the place of offense. The studies of the distribution of delinquency and crime in urban areas have used generally the reported place of residence of the offenders as the basis for indicating areas of high and low delinquency and crime. The question naturally arises as to whether such a basis of computation is the best basis for differentiating varying intensity of crime and delinquency. Is an area necessarily a crime-producing area because of the offenders who happen to reside in it? May not many offenders in any area be influenced by forces outside this area, or may they not have become delinquent before residing in the area? May not crime areas attract offenders as much as produce them indigenously?

It is recognized that an area of residence is not necessarily the area of offense. Sex delinquency triangles, giving the place of residence of the girl, of the boy, and the place of the act, were worked out by Evelyn Crook for juvenile court cases of 700 girl sex delinquents in Chicago from 1900 to 1931.

While she does not report the frequencies of various combinations of triangles, an analysis of 200 triangles, in which all points were located in the city limits, gives some indication of the interarea nature of the problem. Inspection of a map of sex delinquency triangles, prepared

SEX DELINQUENCY TRIANGLES[a]

Type of triangle	Longest long side, miles	Shortest long side, miles	Average of longest sides, miles
Demoralization[b].....	7 5	0 75	2 14
Mobility[c]..	8 5	0 50 plus	2 8
Promiscuity[d].....	13 25[e]	0 50 plus[f]	3 7[g]

[a] CROOK, EVELYN BUCHAN, "Cultural Marginality in Sexual Delinquency," *American Journal of Sociology*, Vol. 39, pp 496–497, 1934 [b] By inspectional working definition, triangles classified as demoralization consisted of those in which the boy lived more than one-half mile from the place but the place of the act was in or near the girl's home, [c] mobility, the boy and the girl lived less than one-half mile apart, while the place of act was one-half mile or more from the residence of each, [d] promiscuity, where all three points of the triangle were more than one-half mile from each other [e] If extracity points were included, the longest sides in all type of triangles would run into hundreds, sometimes thousands, of miles. [f] Actually the shortest side [g] The average of all sides.

with 1931 to 1934 cases in Seattle by Calvin Schmid, likewise confirms the fact that sex delinquency is to a large extent a problem of interarea mobility.[1]

R. Clyde White compared the felony rates of concentric mile zones in Indianapolis in 1930 by two different computations: by residence of the felon and by the place of offense. The zone rates on both computations diminished serially from the center outward but the big difference between

[1] The map is duplicated in PAULINE V. YOUNG and CALVIN F. SCHMID, *Scientific Social Surveys and Research*, p. 355, New York, 1939.

the highest rates in the first mile zone, the central business region, and the next highest rates of the second mile zone is still more marked for the rates computed by location of the felonies than for those computed by residence of felons. Rates computed by the same zones and by the same two bases

FELONS AND FELONIES PER 1,000 MALES FIFTEEN TO SEVENTY-FOUR YEARS OF AGE AND PER SQUARE-MILE AREA BY ZONES, INDIANAPOLIS, 1930[a]

Zone[b]	Felons by residence		Felonies, location of offense	
	Per 1,000 males	Per square mile	Per 1,000 males	Per square mile
I	10 1	50.0	15.0	76.4
II	5.1	20.0	3 5	14.8
III	3.0	8.2	2.9	7.6
IV	1.9	3 5	2.5	5.3
V	1.5	2 0	2.7	3.7

[a] WHITE, R. CLYDE, "The Relation of Felonies to Environmental Factors in Indianapolis," *Social Forces*, Vol. X, p. 501, 1931–1932.

[b] Zone I includes a one-mile radius from the center of the business ditrect; Zone II, 1 to 2 miles, etc.; Zone V, over 4 miles from the center of the city.

(residence and place of crime) for a series of misdemeanants in Indianapolis displayed the same centrifugal decline from the central zone outward, but the decline in rates of this series from the central zone to the second zone was even more precipitous in the computation by location as contrasted with residence than was true of the felony series. Besides, the rates in the decentralized zones (III, IV, and V) were even smaller in the location computation than the residence computation for the misdemeanant cases, both of which facts indicate that the central area of Indianapolis is much more concentrated for crime activity than for criminal residence.[1] In the felony cases in which both location of offense and place of residence of offender were known, White found that the average distance from place of residence to location of crime was 0.84 miles for crimes against the person and 1.72 miles for crimes against property. The average distance in miles from residence to place of crime for various crimes against the person were: rape, 1.52; assault and battery, 0.91; manslaughter, 0.11; for crimes against property: auto banditry, 3.43; embezzlement, 2.79; robbery, 2.14; vehicle taking, 1.77; burglary, 1.76; grand larceny, 1.53; obtaining money falsely, 1.47; petit larceny, 1.42.[2]

One of the main questions raised by Shaw's research on the distribution of delinquency concerns the matter of taking place of residence of the

[1] WHITE, R. CLYDE, "The Relation of Felonies to Environmental Factors in Indianapolis," *Social Forces*, Vol. X p. 501, 1931–1932.

[2] *Ibid.*, p. 507.

delinquent as an indicator of the crime-producing propensities of the area in which residence is located. Actually, Shaw's work only demonstrated the fact that areas vary greatly in the proportional numbers of delinquents they embrace, house, or contain (by place of residence). It did not reveal to what extent areas are differentially responsible for producing these delinquent residents. Some of them may have been delinquent or on the road to delinquency before they assumed residence in the area whose delinquency rate they help to make.

Taft addressed himself to the problem of discovering to what extent residence in local areas at the time of crime actually meant that the area has something to do with the production of crime. Putting the matter in another way, the question arises as to the extent to which areas attract or select criminals who are technically residents at the time of crime but whose criminal behavior cannot be laid at the door of the area in which they reside. He studied intensively a small group of 109 felons that had been committed to two penal institutions in Illinois from the small city of Danville, Ill., during 1928, 1929, and 1930. It is realized, of course, that the possibilities for selection by or attraction to an area are perhaps greater in the case of adult offenders than in the case of juvenile offenders, and conversely that the opportunities for an area to produce an offender as an indigenous product are greater for juvenile than for adult offenders.

Of the 109 adult commitments from Danville, on investigation, 29 were not residents in the city at the time of offense. Of the 80 who claimed Danville as their residence at the time of the crime, 7 cases were eliminated because of technical considerations, leaving 73 cases which were considered actual residents of the city and 102 in the total sample studied. Of the 73 resident cases, 30 had been seriously criminal before coming to Danville, 4 had a reputation (but evidently not an ascertainable record) of delinquency prior to residence in the city, 5 had parents or other members of the family who had a criminal record or a reputation for delinquency before the family came to Danville. Thirteen cases were actually born in Danville, but 5 of the 13 had previously delinquent families, so that only 8 cases remained who were born and reared in Danville and at the same time had families without a criminal record or reputation prior to taking up residence in the city. These 8 cases, therefore, represent the minimum number of Danville products in the total sample of 102. On the other hand, 28 of the 73 residence cases had spent all or a portion of their first thirteen years of life (the formative childhood period) in Danville, while 45 of the 73 resident cases did not spend any portion of their childhood in the city.

The foregoing sortings of cases yield various indexes of the extent to which the locality may be suspected of producing the criminals who are officially taken from its area. According to the method of reckoning,

8 out of 102 or 8 out of 73, might be the minimum proportion of local products; 28 out of 102 or out of 73 might be another basis for judging local influence in the formative childhood years; 59 (the 29 nonresidents plus the 30 residents who were seriously criminal before residing in Danville) out of 102 might be considered the basis for eliminating influence attributable to the Danville locality, while 68 (the aforesaid 59 plus 9 others) out of 102 might be the optimum measure for absence of locality influence. Taft claimed that "somewhere between 41.6 per cent (30 out of 73) and 89 per cent (73 minus 8, or 65, out of 73) lies the true measure of the selective influence of Danville on these particular criminals."[1] While this is his judgment as to the attraction of criminals to the Danville locality, there is no apparent reason why the proportion of 68 to 102 or 66.6 per cent (two-thirds) is not the best over-all index to the selective rather than indigenous influence of the Danville area on adult offenders.

To be sure, these ratios, no matter how computed, are not intended to represent any absolute index of criminal influence attributable or not attributable to a locality, but they do serve to indicate that area crime rates as based on residence in an area at the time of offense cannot be taken as measures of indigenous locality influence on crime, because of a wide range of influence outside and prior to residence in the area. However, Taft recognized the fact that criminals, delinquents, and predelinquents who migrate to a locality "may be partly products of life elsewhere in delinquency areas." By further soundings of the problem, Taft also had the hunch—yet to be proved but nevertheless very plausible—that "it is not so much residence in a geographical area as membership in a certain type of sub-group, such as 'the young fast set,' which has produced crime."[2]

Crime Gradients in the Metropolitan Region

It has been suspected for a long time that crime decreases in per capita volume throughout the hinterland of a large urban community with the distance in miles from the center of the dominant city.

Sutherland reported special data for the Chicago region to show that the volume of crime decreases as the distance from the large city increases. During the years 1931 and 1932, 59.6 per cent of the stores of a large chain-store system were burglarized or robbed in Chicago, while only 29.8 per cent of the stores within a 25-mile suburban zone from Chicago were burglarized or robbed. The percentage declined steadily for each

[1] Taft, Donald R., "Testing the Selective Influence of Areas of Delinquency," *American Journal of Sociology*, Vol. 38, pp. 704–708, March, 1933.

[2] *Ibid.*, p. 709

successive 25-mile zone around Chicago, so that when the zone of 100 to 125 miles from Chicago was reached, only 6.2 per cent of the stores were burglarized or robbed.[1]

Lottier addressed himself to the task of demonstrating to what extent gradients in crime rates existed in the commutation area of Detroit comprising a dependent hinterland within a 25-mile radius of the center of the city. Crime rates were calculated for zones ranging from 1 to 2.9 (Zone I), 3 to 5.9 (Zone II), 6 to 8.9 (Zone III), 9 to 11.9 (Zone IV), 12 to 14.9 (Zone V), 15 to 19.9 (Zone VI), 20 to 24.9 (Zone VII) miles from the city hall of Detroit. The murder rate declined from 39.7 per 100,000 population in Zone I to zero in Zones V and VI and climbed back to 11.6 in Zone VII. The rape rate declined from 83.4 in Zone I to 0 in Zone VI and rose to 17.4 in Zone VII; robbery from 608.1 to 62 in Zone V, to 89.1 in Zone VI and 140 in Zone VII; assault from 440.9 to 4.9 in Zone VI, to 75.4 in Zone VII; auto theft from 1722.3 to 188.1 in Zone VI, to 446.7 in Zone VII. The rise in Zone VII in these crime rates is probably explained by the presence of satellite industrialized small cities, such as Pontiac and Plymouth, which increase the volume of crime in the zone. The descending gradient tendency of burglarly and larceny over $50 was not apparent, while it was just moderately apparent in the case of larceny under $50.[2]

Lottier computed crime rates for the commutation area of Detroit and 17 cities having a population of 10,000 and over, including a radius of 200 miles from the center of Detroit, which comprises roughly the metropolitan region of Detroit. The region was divided into 4 zones: Zone I, 1 to 10 miles from the city hall (highway distance); Zone II, 11 to 50; Zone III, 51 to 109; Zone IV, 110 to 199. Descending crime rate gradients throughout the four successive zones were marked in murder, rape, robbery, and assault but no gradient tendency was apparent for burglary, larceny over $50, larceny under $50, and auto theft.[3] Crimes involving action against the person (the first four listed) show gradient tendency; those involving action against property do not show gradient tendency. Lottier suspected that the latter would show gradient tendency likewise if the rate calculation could be made on units of property rather than on units of population. When he computed the ratio of chain-store burglaries to the number of chain stores within radial zones, the gradient tendency became quite marked, *i.e.*, declined as the zone distance from the center of Detroit increased.[4]

[1] SUTHERLAND, E. H., *Principles of Criminology*, p. 122, Philadelphia, 1934.

[2] LOTTIER, STUART, "Distribution of Criminal Offenses in Metropolitan Regions," *Journal of Criminal Law and Criminology*, Vol. 29, pp. 39–43, 1938–1939.

[3] *Ibid.*, pp. 41, 44–45.

[4] *Ibid.*, p. 47.

By way of interpretation of the gradient tendency of crime in the commutation area and metropolitan region of the large city, Lottier emphasized the fact that criminal activity should not be looked upon as a phenomenon isolated from the dominance and control that the urban center exerts over other activities of daily living. Criminals use the same means of transportation and communication as do noncriminals. They are attracted by the opportunities and advantages of the large city and its environs, and by the possibilities for the practice of specialized pursuits and for exploitation in the metropolitan region. "And no less than the rest of the population," says Lottier, "the criminal is automatically incorporated into the metropolitan economy."[1] Hence crime should pulsate faster the closer to the center of life (the heart of the large city).

While Lottier in his interpretation may overemphasize the economic aspects of ecological determinism of crime in the metropolitan region, nevertheless, forces of change, individualization, disorganization, and demoralization are turned loose by the large city in proportion to the distance from the center, and these forces affect crime as well as social and economic activity generally.

Urban-rural Differences

There is abundant evidence to show that crime rates are much higher in urban than in rural communities and that they tend to increase as they are graded on a scale of increasing size of population. Mapheus Smith, in a study of juvenile delinquency by counties in the state of Kansas, has shown that there is a moderate positive correlation between juvenile delinquency rates and the size of the largest community in the county, that "there is a tendency for delinquency rates to decline as tier-distances from a focal county increase," and that "size of delinquent rates is related to distance from urban communities." He contended that "regardless of absolute size of the focal community, so long as the surrounding regions contain communities not known to be independent of the focal community, the relationship holds."[2] An earlier study, by Mounts, of commitment rates to the juvenile reformatories of Iowa showed a tendency for delinquency to increase as the size of town increased.[3] The average commitment rates of juvenile delinquents in Illinois likewise increased by size of county population up to 500,000

[1] *Ibid.*, p. 50.

[2] Smith, Mapheus, "Tier Counties and Delinquency in Kansas," *Rural Sociology*, Vol. 2, p. 322, September, 1937.

[3] Mounts, Lewis Hendrix, "Dependents, Defectives and Delinquents in Iowa; a Study of the Sources of Social Infection," *University of Iowa Studies in the Social Sciences*, no. 2, Vol. 7, 1919.

population. The county containing the largest city of the state with a population several times in excess of 500,000, however, was found to have a comparatively small juvenile delinquent commitment rate, because of the juvenile court and probation handling, which operates to send only a small percentage of juvenile offenders to reformatories.[1]

A study by Burrows of criminal statistics in Iowa over a period of several years (1849–1927), using conviction and commitment statistics, revealed that the rate of crime is "highest in the urban counties and lowest in the rural counties." "The relationship," continues Burrows, "seems to be in almost direct ratio to the extent of urban conditions, for the criminal rate for the middle counties is for the most part about midway between the rates for the urban and rural counties."[2] Bruce Smith cites the conclusion from a study of crimes known to the police in Finland (1927 to 1931) that crime generally is more heavily concentrated in cities than in rural areas.[3]

Burchardt reviewed the conviction statistics for several countries and found that cities exceeded the smaller places and the rural areas in crime rate. The principal exception was the Netherlands, in which the four largest cities separated out had the smallest rates, the communities under 5,000 population had the next lowest rates, and the communities between 5,000 and 20,000 population and the communities of 20,000 and over had the highest rates for the years 1911, 1912, 1923 to 1927, and 1928 to 1932. However, in 1933 the conviction rates per 100,000 population for the various classifications of communities were as follows: the 4 largest cities, 209.2; communities 20,000 and over, 216.9; communities 5,000 to 20,000, 204; communities under 5,000, 193; total country, 207.2.[4]

Von Hentig cited statistics on convictions to indicate that the crime rate in the Netherlands is lower in the four principal cities (Amsterdam, Rotterdam, Hague, and Utrecht) than in the country as a whole. He also contended that, in Austria, Vienna has a smaller crime rate than that in other areas of the country and that, contrary to expectation, the sparsely settled mountain areas of the country have the highest crime rates—a finding which undoubtedly needs special study for its explanation.[5] A

[1] RECKLESS, WALTER C., and MAPHEUS SMITH, *Juvenile Delinquency*, p. 45, New York, 1932, figures cited in *Illinois Crime Survey*, pp. 672–673, 1929.

[2] BURROWS, CHARLES N., "Criminal Statistics in Iowa," *University of Iowa Studies in the Social Sciences*, no. 2, Vol. 9, p. 110, Iowa City, no date.

[3] SMITH, BRUCE, *Rural Crime Control*, pp. 12–13, New York, 1933.

[4] BURCHARDT, HANS HERMANN, *Kriminalitat in Stadt und Land*, Berlin and Leipzig, 1936. Coverage on Germany, pp. 54–61; France, p. 64; Netherlands, p. 65; Sweden, p. 67; Finland, pp. 70–71; Estonia, p. 72; Denmark, p. 73; Greece, p. 75; Hungary, p. 76; Bulgaria, p. 77; Canada, p. 78; Austria, p. 80.

[5] VON HENTIG, HANS, "Der kriminelle Aspekt von Stadt und Land," *Monatsschrift fur Kriminalpsychologie und Strafrechtsreform*, Vol. 23, pp. 435–436, 1932.

special study of conviction statistics in Greece by Gardikas is in line with the general trend of large-size exceeding small-size communities in criminality. He found that 19 per cent of the convictions in Greece in 1931 were in the large cities (over 100,000 population) which contained 15 per cent of the total population of the country; 17 per cent, in cities of 10,000 to 100,000 population containing 13 per cent of the total population; 63 per cent, in villages and small towns under 10,000 population containing 72 per cent of the total population.[1]

It is now realized that the best statistics to use for purposes of quoting rates are the reports of the crimes known to the police, since they are based on a much more uniform and consistent policy of administration than the statistics on arrests, convictions, and commitments, which are subject to great variations in policy in time and place.[2] Consequently, it might be well to discover what the variation in crime rates according to size of community or urban-rural communities is from sources using reports of crimes known to the police.

The Federal Bureau of Investigation of the United States Department of Justice presents data on the rates of crimes known to police by type of crime and size of community (from under 10,000 to over 250,000 population). For practically all types of offenses the rates per 100,000 population increases regularly from the smallest sized communities to the largest sized communities (100,000 to 250,000 and 250,000 and over). The rank order of these crime rates from highest (No. 1 rank) to lowest (No. 6 rank) by type of crime and classified size of community are given in the table on p. 84.

The communities with a population under 10,000 have the lowest rates of crime known to the police, as is indicated by the total rank score of 46.5; those with a population of 10,000 to 25,000 have the next to lowest rates, with a total rank score of 38; those with a population of 25,000 to 50,000 have rates higher than the communities in 10,000 to 25,000 population; those with 50,000 to 100,000 population have rates higher than communities 25,000 to 50,000; and the communities over 100,000 have rates higher than communities with a population of 50,000 to 100,000.

The Ohio rates of crime known to the police in 1931 by size of community show pretty definitely that the rates of offenses against property

[1] GARDIKAS, KONSTANTIN G., "Die Kriminalität Griechenlands in Stadt und Land," *Monatsschrift fur Kriminalpsychologie und Strafrechtsreform*, Vol. 26, pp. 345–346, 1935.

[2] Thorsten Sellin contends that "an index based on crimes reported to or known to the police is superior to others, and an index based on statistics of penal treatment, particularly prison statistics, is the poorest." *Encyclopaedia of the Social Sciences*, Vol. 4, p. 565.

increase with the size of the community, *i.e.*, by communities of 5,000 to 9,999 population, 10,000 to 24,999, 25,000 to 49,999, and on to the largest cities. The rates of crimes against the person, however, did not show a regular increase by these categories of community size.[1]

RANK ORDER OF RATES OF CRIMES KNOWN TO POLICE BY TYPE OF CRIME AND SIZE OF COMMUNITY, BASED ON REPORTING TO THE FEDERAL BUREAU OF INVESTIGATION FROM POLICE DEPARTMENTS OF 1,658 CITIES IN 1936[a]

Size of community	Murder, non-negligent manslaughter	Manslaughter by negligence	Rape	Robbery	Aggravated assault	Burglary, breaking or entering	Larceny, theft	Auto theft	Total ranks
Over 250,000.....	1.5	1.	1	1	3	2	3	2	14 5
100,000 to 250,000	3	2	3 5	2	1	1	1	1	14 5
50,000 to 100,000	1.5	3	5	3	2	3	2	3	22 5
25,000 to 50,000..	6	4	2	4	4	4	4	4	32.0
10,000 to 25,000..	4	5.5	3.5	5	5	5	5	5	38.0
under 10,000. ...	5	5.5	6	6	6	6	6	6	46.5

[a] Ranks figured from rates given in *Uniform Crime Reports for the United States and Its Possessions*, Federal Bureau of Investigation, U. S. Department of Justice, no. 4, Vol. 7, fourth quarterly bulletin, 1936, p. 130, Table 74, Government Printing Office, Washington, D. C., 1937.

The preponderance of the evidence certainly points to the fact that the incidence of crime in proportion to population is lowest in rural and small-town communities and is highest in the large urban communities and that it increases by size of community and increases as communities fall closer to the zones of influence of a focal community, particularly the large city. The reasons for these gradients in incidence of crime should probably be sought in situational conditions, such as greater emancipation of individuals from local neighborhood and family ties as social life is differentially graded from rural to large urban communities; the great mobility of the population and disintegration of local controls over the individual as we approach urban spheres of influence; the greater opportunities to violate laws, to make criminal contacts, and to follow crime as a profession; and the selective gravitation toward urban centers of persons who are good risks for crime or who are already offenders. It is doubtful that the differential crime rates according to size of community can be adequately explained by the differences in administrative or legal factors influencing crimes known to the police. While urban communities

[1] BETTMAN, ALFRED, L. C. MARSHALL, W. C. JAMISON, and R. E. MILES, *Ohio Criminal Statistics* 1931, p. 29, Baltimore, 1932.

have more police facilities to detect and apprehend, offenses come to light and offenders are known and taken into custody more easily in small towns and rural areas, which are not traditionally antagonistic to the law of the land, in spite of poor and inefficient police coverage.

Burchardt explains the higher rate of criminality in cities as compared with small towns and rural areas in terms of the following factors and conditions: friction and clash of interests as a result of greater crowding, the greater anonymity of urban life which encourages violations, greater means to dispose of stolen goods in cities, the collection of criminal types and criminal associations, the migration of young adults to cities, which is the principal age level of offenders, economic insecurity of city life especially in times of crisis, moral hazards of urban commercial amusements and stimulation, and the increase of laws in cities which in turn increases the possibilities of violations.[1]

Bruce Smith, although admitting the general conclusion that crime rates are usually higher in urban than in rural areas, is impressed with several exceptions. However, his exceptions are based largely on some historic observations, namely, that in certain periods crime of certain types appeared to be rampant in rural areas, and are not based on uniform crime-reporting efforts and facilities such as exist today.[2] On the other hand, it sometimes happens that a particular rural section, witnessing unusual disorganizing changes or possessing a tradition of exceeding lawlessness, will show a crime rate as high as or higher than those of urban areas. But such instances are not numerous enough to affect the general tendency for rural areas to have lower crime rates than urban areas have.

Urban-rural Types of Crime

Sociologists in the past have contended that rural crime differs from urban crime not only in degree (rate) but also to some extent in kind. In regard to the latter point, evidence as summarized by Sorokin and Zimmerman seems to indicate that rural offenders show a higher proportion of crimes against the person, such as homicides, infanticides, and grave assaults, and a lower proportion of crimes against property, with the exception of arson and cattle stealing, than do urban offenders.[3] Mapheus Smith, using American juvenile court statistics reported to the United States Children's Bureau in 1928, found that children coming

[1] Burchardt, *op. cit.*, pp. 56–59.

[2] Smith, Bruce, *op. cit.*, pp. 6–18.

[3] Sorokin, Pitirim A., and C. C. Zimmerman, *Principles of Rural-urban Sociology*, p. 384, New York, 1929. For an excellent collection of world-wide materials on rural-urban differences in criminality and for bibliography, see *A Systematic Source Book in Rural Sociology*, ed. by Pitirim A. Sorokin, Carle C. Zimmerman, and Charles J. Galpin, Vol. 2, pp. 266–302, 315–329, Minneapolis, 1931.

from communities having under 50,000 population were "close to the average (for all juvenile courts reporting) in offenses against property, well above average in truancy, well below average in running away from home, well below average in being ungovernable, well above the average in offenses against persons, and very much above in liquor- and drug-law violations, while girls were above the average and boys below the average in sex offenses."[1]

A study of crimes known to the police in 80 cities and 63 counties of Ohio in 1931 revealed the fact that crime rates in the urban places were very much higher than those in rural places for offenses against property, but were slightly under the rates in rural districts for offenses against the person.[2] Comparing the proportions of 1936 crimes known to the police in the United States, the Federal Bureau of Investigation found that rural areas, *i.e.*, places under 2,500 population, were slightly under urban areas, *i.e.*, places over 2,500 population, for larceny, slightly above for burglary, considerably under for auto theft, about the same for robbery, and very much above for crimes against the person, such as aggravated assault, rape, murder, and manslaughter.

PERCENTAGE OF TYPES OF CRIME KNOWN TO THE POLICE BY URBAN AND RURAL AREAS, UNITED STATES, 1936[a]

Type of crime	Urban, per cent	Rural, per cent
Larceny	52 5	46 7
Burglary	22 8	29 6
Auto theft	15 7	10 3
Robbery	4.1	4 2
Aggravated assault	3 4	4 8
Rape ..	0.6	2 1
Murder	0.5	1.1
Manslaughter	0 4	1 2
Total	100 0	100 0

[a] Federal Bureau of Investigation, U S. Department of Justice, *op. cit.*, p. 145.

The Federal Bureau of Investigation contends that the reason why the proportion of crimes against the person is much higher in rural than in urban areas may be that "some of the reports representing rural crimes indicate the possibility that they were limited to instances in which arrests were made." Consequently, "incompleteness of this sort in the reports of rural crimes will tend to increase the percentage of rural crimes against

[1] RECKLESS and SMITH, *op. cit*, p. 64.

[2] BETTMAN, *et al.*, *op. cit.*, pp. 15–16. The 63 counties are taken as the rural districts, since offenses committed within the cities of these counties were omitted from the computation of the nonurban rates.

the person because such offenses are much more generally followed by arrests than are the less serious offenses against property."[1] It is doubtful, however, that this is so. On the contrary, it might be urged that just the opposite tendency exists in rural areas.

The 1931 convictions in Greece broken down by type of crime show the following proportions falling in the large cities, the middle-sized cities, and the villages and small towns.

PERCENTAGE OF TYPES OF CRIME BY SIZE OF COMMUNITIES, GREECE, 1931[a]

Type of offense	Large cities (over 100,000 population)	Middle-sized cities (10,000 to 100,000 population)	Small towns and villages (under 10,000 population)
Fraud	38	25	36
Murder	4	11	84
Theft	22	16	60
Rape	5	5	89
Usury	45	25	30
Incest, unchastity, seduction of children	30	15	54
Cattle theft	1	3	96
Self-defense and unlawful attack	11	13	75
All offenses	19	17	63
Population	15	13	72

[a] GARDIKAS, *op cit*, pp 345–346

The small communities are considerably above the proportion for all crimes and the proportion of population in the percentage of murder, rape, cattle theft, and self-defense and unlawful attack, and are very much lower than the national averages in percentage of fraud and usury. The largest communities are very much above the national average in fraud, usury, sex offenses (not including rape) and slightly higher in theft, and they are very much below the averages in murder, rape, cattle theft, and self-defense and unlawful attack. The Greek data bear out pretty generally the conclusion that crimes against the person are more typically rural and crimes against property are more typically urban.

If we can accept the general proposition that rural crime contains a higher proportion of offenses against the person and higher proportions of special offenses, such as cattle stealing, barn burnings, and infanticide, the question becomes one of explanation. Here again, situational factors seem to be the obvious explanatory agents, since it is impossible to assume special constitutional and inborn mental traits for rural as against urban populations. Under conditions of relative isolated living, stronger

[1] Federal Bureau of Investigation, U. S. Department of Justice, *Uniform Crime Reports*, no. 4, Vol 7, 1936, p 65, Washington, D.C., 1937.

and more violent reactions to social interferences and at points of friction appear to be manifest. Grudges are more frequently nursed in rural than in urban areas, revenge is more readily demanded, personal satisfaction and gratification are more often sought, passions and fanaticism are more easily stirred. Thus, we assume that human character in rural areas is fiercer and more intolerant of interference and insults. If an analogy can be pardoned, even the rural dogs seem to be fiercer and more intolerant than urban dogs, who more readily become cosmopolitan in tastes and accustomed to diverse people and the diverse ways of people.

Lombroso, calling attention to urban-rural differences in crime from data of nineteenth century Europe, made the following statement: "The crimes in the country are more barbarous, having their origin in revenge, avarice, and brutal sensuality. In the city the criminality is characterized by laziness, a more refined sensuality, and by forgery. This phenomenon of the increase of crimes against public decency in the cities, and the relative decrease of crimes of blood, is greatly accentuated when we study the very large urban centers."[1]

Tarde likewise made pointed contrasts between the nature of urban and rural crime, which support our general contention.

> In its more numerous and better concealed manifestations, as well as in its more astute and more voluptuous nature; in its more ingenious and less routine methods, just as in the more varied and more exotic social origin of its agents, urban criminality contrasts strongly with rural criminality.[2]

Regional Variations in Crime

It is significant to note that among the early modern statistical researches in crime there was considerable attention paid to the regional variations of the problem. The method used in these early studies is known as the cartographic method, which is essentially the same sort of method referred to today in modern American sociology as the ecological approach and the regional approach. Lindesmith and Levin contend that "criminology as a modern social science may be said to have begun approximately in the 1830's with the publication of the works of Quetelet and A. M. Guerry on this subject."[3]

Guerry is accredited with having initiated the cartographic method of studying the variations in crime by geographical units—a method which was adopted as a model by a large number of criminological researchers in

[1] Lombroso, Cesare, *Crime, Its Causes and Remedies*, translated by Henry P. Horton, pp. 74–75, Boston, 1918.

[2] Tarde, Gabriel, *Penal Philosophy*, translated by Rapelje Howell, p. 292, Boston, 1912.

[3] Lindesmith, Alfred, and Yale Levin, "The Lombrosian Myth in Criminology," *American Journal of Sociology*, Vol. 42, p. 655, March, 1937.

decades following.[1] "The 'cartographic' or 'geographical' method of analysis which Guerry introduced in his *Essai sur la statistique morale de la France* in 1833 and later elaborated in his monumental *La statistique morale de l'Angleterre comparée avec la statistique de la France* (1860), became an accepted and common technique in the analysis of statistical data in criminology and in other social sciences."[2] Guerry "attempted to account for the variation in crime rates from one period to the next and from one district to the other in terms of an analysis of general social conditions and of differences in legislation."[3]

Rawson, following certain general features of Guerry's method, came to the conclusion that crime in England and Wales (as of the 1830's) was the greatest in large towns, that where there was no influence of large towns very little difference in average amount of crime was to be found in agriculture and manufacturing counties, that mining counties were much below average in crime (about one-half the rate of the national average), and that crime was still less frequent in the remote counties of Wales and in the mountainous districts of northern England (about one-third the rate of the national average).[4] Rawson also attempted to demonstrate variations in specific types of offenders by districts, the conclusions from which are hard to generalize.[5]

Henry Mayhew, using the 1841 to 1850 yearly average rates of offenders committed for trial and held on bail for counties of England and Wales, showed by mapping that a center strip of counties that contained

[1] *Ibid.*, pp. 655–657.

[2] *Ibid.*, p. 656, footnotes 5 and 6 on pp. 655–657.

[3] *Ibid.*, p. 657. Elmer calls attention to the work of M. de Guerry de Champneuf, bearing the same title as the one listed for A. M. Guerry above. There is a controversy between Mr. Lindesmith and Mr. Elmer as to whether these are the same or different persons. Nevertheless, Elmer presents the crime rates (based on the number of accused) by 86 departments in France, 1825–1830, as worked out by (his) Guerry. The area variations for different parts of France come out glaringly. For example, the highest rate for crimes against the person occurred in Corse (1 out of 2,199 inhabitants); the lowest in Creuse (1 out of 37,014 inhabitants); average for all departments, 1 out of 17,085 inhabitants. See ELMER, M. C., "Century-old Ecological Studies in France," *American Journal of Sociology*, Vol. 39, pp. 63–70, 1933.

[4] RAWSON, RAWSON W., "An Inquiry into the Statistics of Crime in England and Wales," *Journal of the Statistical Society of London*, Vol. 2, p. 338, 1839.

[5] *Ibid.*, pp. 339–343. See, also, NEISON, F. G. P., "Statistics of Crime in England and Wales for the Years 1842, 1843, and 1844," *Journal of the Statistical Society of London*, Vol. 9, pp. 223–276, 1846, as representing another early attempt to demonstrate area variations in crime according to socioeconomic conditions. The work of Walter Buchanan, A. Allison, Sydney Turner, Joseph Fletcher, Henry Mayhew, and others is also cited by Levin and Lindesmith as examples of the ecological approach and use of the cartographic technique in England a century ago. See LEVIN, YALE, and ALFRED LINDESMITH, "English Ecology and Criminology," *Journal of Criminal Law and Criminology*, Vol. 27, pp. 801–816, 1936–1937.

the industrial and commercial centers was far above the average rate for the whole country and that a tier of counties peripheral to the central core was far below the national average. The 1841 to 1850 yearly average rate per 10,000 population was 16.4. The three highest counties in the central core were Gloucester with a rate of 26.1, Worcester with 25, and Middlesex with 24.5. The three lowest counties, which were peripheral and coastal, were Durham with a rate of 7.8, North Wales with 7.2, and Cumberland with 7.1.[1] Mayhew also showed by map that female crime was even more highly concentrated in the central counties and diluted in the peripheral counties than was crime in general.[2] J. F. Sutherland in a cartographic study of crime in Scotland at the beginning of the twentieth century arrived at the following conclusion:

> Anyone in the least familiar with Scotland will be able to see at a glance that its criminality is mainly confined to the four cities and to the smallest but most populous area. . . . embracing Lanarkshire, Linlithgowshire, Renfrew, Ayr, and Fife. In Groups I and II [areas with rates of 61 to 95 and 51 to 60 per 10,000 population, the two highest classes of rates] the populations are for the most part mining and industrial. In the Highlands and Islands, and North-Eastern District, which comprise the fishing, crofting, and agricultural counties, the amount of crime is small, and likewise in the pastoral border counties, save Dumfries, touching almost the vanishing point in the county of Sutherland, the Orkney and Shetland Isles, the Western Isles, and Outer Hebrides.[3]

Within the United States, the crime rate in general and crime rates for specific types of crime vary greatly by geographic divisions. The Southern states apparently show up highest in crime, according to the crime rates based on crimes known to police in places of 2,500 population and over for 1936. New England, with the highest rank score, is the lowest in crime rates, while the Middle Atlantic is the next lowest in crime. The favorable ranking of New England and the Middle Atlantic states is surprising in view of the high industrialization and urbanization of the regions. The highest rating of the Southern states (South Atlantic and East South Central) in crime is still more surprising because of their less industrial, less urbanized character. With the present status of knowledge, one can only fumble for clues as to the explanation of the differences between the two sections of the United States. Many of the indexes of a well-ordered existence, including indexes such as book circulation, literacy, educational and cultural agencies, standards of living, public improvements, the status of welfare work and institu-

[1] MAYHEW, HENRY, *London Labor and the London Poor: Those That Will Not Work*, p. 455, London, 1862.

[2] *Ibid.*, p. 503.

[3] SUTHERLAND, J. F., *Recidivism: Habitual Criminality, and Habitual Petty Delinquency*, pp. 36–37, Edinburgh, 1908. Brackets, mine.

tions, and so forth, place the Southern states in lowest position in the country and make it a region relatively retarded, unorganized, and unequipped in means and facilities to compensate for a lingering backwoods tradition of lawlessness and rugged individualism.[1] Some claim that the concentration of Negroes in the Southern states is responsible for the higher crime rates. If this is true, it would be because of the social instability of the Negro by virtue of his position in the socioeconomic scale and the naive lawlessness of a people just two generations removed from slavery, serfdom, and dependence. While the Northern and Eastern cities have received immigrants from Europe, the assumption would have to be that these people by and large were more favorably situated to respect law, life, and property than are Negroes in the South. This is doubtful when we consider the floods of European peasants pouring into Northern and Eastern cities of the United States, who were visibly no more equipped to handle themselves in this urban situation than the Negro was in the era of freedom.

RANK ORDER OF GEOGRAPHIC DIVISIONS OF THE UNITED STATES BY RATES OF CRIME BY TYPES OF CRIME, 1936[a]

Division	Murder	Rape	Robbery	Aggravated assault	Burglary	Larceny	Auto theft	Total rank score
South Atlantic	2	3	2	1	2	2	3	15
East South Central	1	8	1	2	1	6	4	23
West South Central	3	6	4	3	4	1	5	27
Pacific ..	8	1	5	6	3	3	1	27
Mountain	4	2	6	7	5	4	2	30
East North Central	5	4	3	4	7	7	8	38
West North Central	6	9	7	8	6	5	5	46
Middle Atlantic	7	5	8	5	9	9	9	52
New England	9	7	9	9	8	8	7	57

[a] See Federal Bureau of Investigation, *op cit*, p 137, for crime rates from which the ranks were computed

Consequently, the relatively unorganized, desultory nature of life in Southern states, and its attending lawlessness and inefficiency in political and social controls are probably the major situational explanations of the height of criminal behavior in the region. The Western states, being lower in crime rating than the Southern states, must have lost their frontier character more quickly than the South has lost its backwoods atmosphere and organized their institutions and resources more quickly

[1] See VISHER, S. S., "The Comparative Rank of American States," *American Journal of Sociology*, Vol. 36, pp. 735–757, March, 1931.

than the Southern states to combat disorderly conditions of a new country.

Notorious, of course, is the fact that the Southern states of the United States have the highest homicide rates in the country. From data compiled by Brearley on the average rate of homicide per 100,000 population for the period 1918 to 1927 by states of the United States (excluding Texas, Oklahoma, Nevada, New Mexico, and South Dakota, which did not report data), it is significant to note that Southern states occupied the nine highest places in state rankings. In order from first to ninth place were Florida (29.55), Mississippi (20.57), Alabama (19.30), Louisiana (19), Georgia (18.13), Arkansas (16.4, one year only), Tennessee (16.27), Kentucky (13.02), and South Carolina (12.93). The rate for the registration area of the United States was 8.10 for the same period.[1] The states lowest in homicide rate were found to be the New England states and the agricultural Midwestern and Western states: New Hampshire (1.48), Vermont (1.49), Maine (1.66), North Dakota (1.95), Wisconsin (2.07), Iowa (2.46), Massachusetts (2.47), Rhode Island (2.57), Minnesota (3.12), Connecticut (3.33), Idaho (3.50), Nebraska (3.96).[2] Several Far Western states, such as Wyoming, Arizona, California, and Colorado, were above the national rate but under the leading states in homicide rates. And several states in the upper South and in the region just adjoining the Mason-Dixon line were likewise above the national rate: West Virginia, Missouri, Virginia, North Carolina, and Illinois. The explanation for these regional differences is again not exactly known.

Brearley suggests that the more settled character of life in New England and the stable life of German and Scandanavian settlers in the Western states of low homicide may account for the excellent showing in the regional homicide ratings. Lingering frontier conditions in Western states of above average rating may partly account for their standing, while the presence of the Negro in the Southern states (since their rates are extraordinarily high) is in part responsible for the leading position of the South in homicide.[3]

However, in calling attention to several possible explanations for the unusually high rate of homicide in the United States generally (second highest to the Mafia region of pre-Mussolini Italy), Brearley suggests one explanation which has especial bearing on the high degree of homicide in the Southern states. The persistence of culture patterns, such as the *code duello* (defense of personal honor), family feuds, strong conventional reactions to insults and fighting epithets, bounden duty to protect family

[1] BREARLEY, H. C., *Homicide in the United States*, pp. 19–20, Chapel Hill, N. C., 1932.

[2] *Ibid.*, pp. 19–20.

[3] *Ibid.*, pp. 24–25.

honor, settling of personal differences by violence, community indifference to violent deaths, low value placed on human life, popular justice, and disregard for law and the prestige of courts, has much to do with a high rate of homicide.[1] Modes of action and behavior such as these are today in evidence in the Southern states more than elsewhere in the United States, and they are directly related to violent deaths. If the gangster pattern of "taking people for a ride" became widely disseminated throughout the Chicago region and several other northern metropolitan regions, then such areas would undoubtedly overtake the Southern states in homicide rate and might even overtake the reputation for taking human life cheaply as formerly held by the Mafia of Sicily and the professional swordsmen of Italian Renaissance cities.

Conclusion

Several important situational factors associated with the variation in the frequency and type of crime have been revealed by the analysis of areal and regional studies. A more or less understandable form of lawlessness develops on certain frontiers, especially those of men's communities, which have not as yet developed a settled or stable socio-political order. Crimes of contraband appear at political borders as a normal reaction to restrictive measures of governmental control and as a pursuit which can take advantage of the difficulties of adequately policing both sides of a border. Frontier bad men as well as smugglers are not only produced by the local circumstances but are also attracted by the opportunities afforded by frontiers and borders for following an adventurous scheme of life.

The areas of high crime and delinquency rates in cities provide an unstable social setting in which individuals can become unadjusted to the ways of living required by the dominant moral order. These areas likewise furnish the nurturing soil in which an underworld or criminal culture can survive and thrive. The centrifugal zones around large urban centers display a descending gradient of criminality. The suspicion is that the forces making for instability of social life, demoralization of individuals, and opportunities in following criminal pursuits are the most active in the central core of the large city and diminish in strength in proportion to the distance away from the center of greatest pulsation.

Rural areas apparently display less criminality than urban areas do, because of greater stability and fewer opportunities for violations. Urban criminality tends to be more concentrated in property offenses than rural,

[1] *Ibid.*, pp. 51–56, 47–50. The author looks upon the explanatory factors which Brearley includes under historical background, such as lawlessness in a free, open country, as folkway patterns or culture patterns.

while rural criminality tends to contain a higher proportion of violent crimes than urban. It is felt that the materialism of urban centers affords opportunities and motivation for lucrative crimes, while the relative isolation of persons in rural areas breeds explosive reactions in the frictions of personal contacts. The variations in the rate of criminality and type of offenses by sections of a country or by regions suggest that differences in conditions of living, legal and conduct norms, amount of mobility and change, forces making for sudden growth, and special traditions of lawfulness or lawlessness are associated with the quantity and quality of crime.

The factors uncovered by the investigation of areal and regional differentials in crime are undoubtedly more connected with opportunities or risks for becoming criminal than with direct causation of criminal behavior.

CHAPTER VI

SEX, AGE, AND RACE DIFFERENTIALS IN CRIME

Crime varies not only in form and amount by the type of legal and social definitions of behavior, by areas, communities, and regions, by the extent of heterogeneity, change, and disorganization of confronting social situations, but also by population categories such as social class, sex, age, race, and nativity. The population categories of individuals have much to do with their activities, behavior, movements, interests, and risks in any society. An individual's participation in the life of any community or society is in large part determined by his social rank, his age group, his sex, his alien status (foreign nativity), and his race, more or less independent of his individuality, *i.e.*, his physical and mental traits. He has greater opportunities of getting into legal and social difficulties and of becoming a violator of rules and regulations if he belongs to a certain categoric status than he does if he belongs to another, just as he has greater opportunities of incurring certain physical dangers and certain diseases. The lines of risk are perhaps more sociologically than biologically drawn around the population categories, and they are concretely reflected in differentials in amount and type of offenses according to categoric status. The reason is that the social order through its customs defines the latitude of actions and movements of such and such a category of persons, *i.e.*, prescribes what they should do, how they should act, and the way in which they should participate in the scheme of things.

Ideally, one should have truly comparable facts and figures on several types of societies in order to discover the range of variation in crime by population categories. But at this point it will be necessary to look for categoric differentials in the most ordinarily available statistics.

Socioeconomic Class

One of the most important categories for the study of differential crime is socioeconomic class, but it is the very one by which criminal statistics are not reported. The reason is that the person's socioeconomic class in complicated societies, whose bureaus report criminal statistics, consists of many composite variables, such as income level, occupation, standard of living, nativity, hereditary rank, social mobility.

From all outward appearances in capitalistic societies with a more or less open class system, it is suspected that members of the lower class

run greater risk of becoming offenders, not only because of greater exposure to demoralizing circumstances but also because of greater liability to arrest.[1] The famous Dutch criminologist, Bonger, showed by citing statistics that offenders disproportionately came from the lower strata of European countries a generation ago.[2] He blamed this on the demoralizing effects of the capitalistic system, whereas differential crime rates naturally should be expected to accompany socioeconomic stratifications, no matter whether induced by capitalism or some other principle of stratification.

The conviction rate per 100,000 population twelve years of age and over in Hungary for 1929 and 1930 varied greatly for the different occupational levels of the country. In rank order, the conviction rates, by respective occupational class were as follows, from highest to lowest: dayworkers, trade, servants, crafts, traffic, agriculture, mining and steel mills, public service, and professions. The conviction rate of the day laborers was almost three times higher than the rate for persons engaged in trade, over four times higher than the rate for servants, almost five times higher than the rate for persons working in crafts, almost seven times higher than the rate for persons working in agriculture, and about ten times higher than the rate for persons in public service and professions.[3]

Sex Differential in Crime

Available statistical reporting from various sources indicates that male offenders are several times more numerous than female offenders. Taking the crude number, the ratio of male to female offenders in modern times varies from 19.5 to 1 to 3.2 to 1. The specific ratios from various criminal and delinquent reportings are as follows: fingerprint records on arrests filed with the Federal Bureau of Investigation, United States Department of Justice for 1937, 13.4 to 1;[4] United States Census of Prisoners for 1936, 19.5 to 1;[5] juvenile court cases from 65 courts reported

[1] See comparative occupational statistics on Germany prior to the World War as gathered by Georg von Mayr in his *Statistik und Gesellschaftslehre*, III, pp. 727–732, Tübingen, 1917, and duplicated in *A Systematic Source Book in Rural Sociology*, edited by Pitirim A. Sorokin, Carle C. Zimmerman, and Charles J. Galpin, Vol. 2, pp. 311–315, Minneapolis, 1931. Also see *ibid.*, pp. 302–303, for an excellent bibliography on the occupational differential in crime.

[2] See p. 169 for details of his contentions.

[3] Hacker, "Ungarische Kriminalstatistik 1930," *Monatsschrift fur Kriminalpsychologie und Strafrechtsreform*, Vol. 23, p. 365, 1932.

[4] U. S. Department of Justice, Federal Bureau of Investigation, *Uniform Crime Reports*, Vol. 8, no. 4, p. 216, Washington, D. C., 1938.

[5] U. S. Bureau of Census, *Prisoners in State and Federal Prisons and Reformatories* 1936, p. 5, Washington, D. C., 1938.

to the United States Children's Bureau in 1934, 5.9 to 1;[1] police returns on persons proceeded against for nonindictable offenses, England and Wales, 1936, 9.3 to 1, and for indictable offenses, 7.2 to 1;[2] persons found guilty of indictable offenses, England and Wales, 1936, 7.1 to 1;[3] persons proceeded against in criminal courts (apprehensions and citations), Scotland, 1933, 6.9 to 1;[4] convictions for indictable offenses, Canada, 1935, 9 to 1;[5] court convictions (*verurteilten*), Germany, 1936, 6 to 1;[6] Tribunaux correctionnels France, 1933, nombre de prévenus, 5.8 to 1, and nombre de condamnés à l'emprisonnement, 6.5 to 1;[7] persons convicted of all offenses, Union of South Africa, 1936, 5.3 to 1;[8] commitments in China from 20 cities, 12.7 to 1;[9] cases accused in courts of first instance in Japan, 1928, 16.5 to 1;[10] lastly, convictions in Hungary, 1930, 3.2 to 1.[11]

The explanation for this wide range of ratios is undoubtedly to be found in the variations in local conditions and in administrative policies and practices of the various countries.

Increasing Disparity of the Sexes in Crime

While the sex ratio of criminality varies markedly from place to place, it has varied somewhat from year to year. For example, the sex ratios of convictions in Germany were 4 to 1 for 1882; 5.3 to 1, 1912; 2.8 to 1, 1915 (war year); 5.1 to 1, 1923; 6.3 to 1, 1929; 6 to 1, 1936, which superficially indicate a decline in the proportion of women offenders (the reason for which would not be clear without special study). Of the number of persons in England and Wales, charged with criminal offenses and sent to jails, during the period 1805 through 1818, the sex ratio was 3.4 to 1.[12] This ratio is less than half the size of the ratios of persons

[1] Children's Bureau, U. S. Department of Labor, *Juvenile Court Statistics* 1934, Publication no. 235, p. 42, Washington, D. C., 1937.

[2] *Criminal Statistics of England and Wales*, 1936, pp. 93–99, London, 1936.

[3] *Ibid.*, pp. xix–xx.

[4] *Criminal Statistics* 1933, Judicial Statistics, Scotland, p. 25, Edinburgh, 1934.

[5] Dominion of Canada, Bureau of Statistics, *The Canada Year Book* 1937, p. 1009, Ottawa, 1937.

[6] *Statistisches Jahrbuch für das Deutsche Reich*, p. 591, (Paul Schmidt), Berlin, 1937.

[7] Direction de la statistique générale et de la documentation, *Annuaire statistique* 1936, p. 79, Imprimerie Nationale, Paris, 1937.

[8] Union of South Africa, Union Office of Census and Statistics, *Official Year Book of the Union*, no. 18, 1937, p. 420, Pretoria, 1937.

[9] Ching-yueh Yen, *Crime in Relation to Social Change in China*, p. 24, Ph.D. dissertation, University of Chiçago, 1934.

[10] Figures cited by Hans von Hentig, "Japanische Kriminal-und-Gefängnisstatistik," *Monatsschrift für Kriminalpsychologie und Strafrechtsreform*, Vol. 22, p. 50, 1931.

[11] Hacker, *op. cit.*, p. 363.

[12] *A Statement of the Number of Persons Charged with Criminal Offenses, who were*

proceeded against for indictable offenses and persons found guilty of indictable offenses in England and Wales during 1936 (7.2 to 1 and 7.1 to 1).

Likewise, over a century ago Beaumont and Tocqueville cited ratios of female prisoners to the total number of prisoners of both sexes for five penitentiaries of the United States: 1 to 19 for both Sing Sing and Auburn of New York state; 1 to 15 for the penitentiary of Connecticut; 1 to 7, Pennsylvania; 1 to 6, Maryland.[1] Figuring the ratios on the same basis (one female to the total for both sexes), from the 1936 statistics on admissions from courts to the penal institutions of the same states, the sex ratios are found to be much higher, with the exception of Connecticut and New York; 1 to 3, Connecticut; 1 to 12, New York; 1 to 40, Pennsylvania; 1 to 19, Maryland; 1 to 29, total United States. The sex ratio for the total country computed for prisoners present in penal institutions as of January 1, 1936, was 1 to 30.[2]

While such ratios over a century's time span are not at all comparable, because of differences in source, methods of reporting, and policies of handling offenders, the suspicion is that considerable increase in the proportion of male to female offenders has come about in the last few generations. Most authorities would admit that previously cited German ratios can be taken as fairly indicative of this trend, because of the rather consistent methods of reporting through the years. Sociologically speaking, if women in modern countries are participating more and more in life beyond the confines of the home, it would be expected that the sex ratios should contract (meaning that women have proportionately increased their liability to arrest and their participation in activities leading to crime). Since the sex ratio in crime has probably expanded rather than contracted in the last two or three generations, the explanation should be sought in a softer policy of arrest and conviction assumed toward women in the modern era.

Explanation of Sex Differential

Recognizing that there is considerable variation in time and place in the sex ratio of criminality, the fact is nevertheless that males are several times more officially criminal than females. The main explanations for this large sex differential in amount of crime should probably be sought in the confronting social order and in the biological constitution

Committed to the Different Gaols in England and Wales, ordered by the House of Commons to be Printed February 18, 1819, pp. 2–3.

[1] De Beaumont and de Tocqueville, *On the Penitentiary System of the United States*, translated from the French by Francis Lieber, pp. 252–253, Philadelphia, 1833.

[2] Bureau of Census, U. S. Department of Commerce, *Prisoners in State and Federal Prisons and Reformatories* 1936, pp. 4, 5, Washington, D. C., 1938.

of the two sexes. Generally speaking, in advanced societies the social order accords men more latitude in movement and activity, and this latitude places men in a higher risk category for violating law. On the other hand, the social order restricts the movement and activity of women much more than the participation of men. Women are confined to the home more than men and are supervised more closely by the family and other institutions, participate less in activity beyond the confines of home and neighborhood. Sociologically speaking, we should expect a sex differential in crime when the place women occupy in the social order is so far different from the one men occupy.

On the other hand, it may be assumed that biologically man is a different acting organism than woman, that men are naturally more active and women more passive, that women by virtue of their sex have more disabilities that restrict their activity, that men tend to be catabolic and women anabolic.[1] From this standpoint, man is constitutionally a greater risk than woman for danger and crime. He, supposedly, seeks out activities and develops interests that place him in a greater risks category for violating the code.

While these two principal explanations can be offered, to account for the sex differential in crime, there seems to be no way to prove at present which one carries the greater weight. The sex differential may be due to the operation of both factors in varying amounts. Theoretically, it would seem that as women participate more in life beyond the home—*i.e.*, in business, industry, education, sports, government—the sex differential in crime should lessen in the years to come. Roughly speaking, we have in modern countries witnessed a generation of greater emancipation and participation of women in nondomestic activities. And yet at the same time there has been no lessening of the differential in crime. It may be that the offenses of women do not become known as readily as those of men and that women do not stand the same risk of getting arrested or held for further legal action after apprehension as men. In other words, police administrative policy falls more lightly on women than on men. There may be some justification for assuming that while modern society has softened its restrictions on women and has accorded them greater participation, it has also paradoxically during the same period lightened their criminal liability as it has done in the case of the child. As a matter of fact, the movement to protect and shelter women and children from hardships in industry as well as in courts and police stations has proceeded during the same epoch that the movement for emancipation has arisen. If this assumption be correct, we then

[1] See THOMAS, WILLIAM I., *Sex and Society*, Chicago, 1907, which although fraught somewhat with an outmoded evolutionary anthropology presents the basic theoretical assumptions and explanations of sex differences.

have a counteractant to greater participation of women and we cannot therefore expect a lessening of the crime differential. To put the matter more bluntly and in exaggerated form, modern society allows women to act more like men but excuses the former more readily than the latter.

Type of Offense by Sex

The sex differential manifests itself not only in volume but also in type of crime. Statistics indicate that there are offenses in which women participate or for which they are held accountable more than other offenses and less than other offenses. Any offense which has a sex ratio much higher than the general sex ratio for all crimes can be thought of as a characteristic male crime in any society, and any crime with a sex ratio much lower than average can be considered as a crime of greater female liability or, in one or two instances, as a typically female crime.

In the juvenile court statistics reported to the Children's Bureau of the United States Department of Labor from sixty-five courts in 1934, the sex ratio for all offenses was 5.9 boys to one girl. Auto stealing had a sex ratio of 201 to 1; burglary and unlawful entry, 92 to 1; holdup, 47 to 1; truancy, 2.6 to 1; running away from home, 2.2 to 1; being ungovernable, 1.4 to 1; sex offenses, 0.6 to 1.[1] The first three listed offenses are undeniably youthful male offenses in America. The last offense, *i.e.*, sex offense, is a more accountable charge against females, while truancy, running away, and being ungovernable are offenses in which girls participate more or for which they are held more accountable than other offenses in the United States.

Taking the data on police arrests from the fingerprint records filed with the United States Federal Bureau of Investigation in 1937, the sex ratio for all offenses was 13.4 to 1. Rape was exclusively a reported male offense. Violation of road and automobile driving laws had a ratio of 69 males to 1 female; auto theft, 68 to 1; burglary, 61 to 1; driving while intoxicated, 48 to 1; offenses against family and children, 45 to 1; carrying and possessing deadly weapons, 30 to 1; robbery, 23 to 1; embezzling and fraud, 22 to 1; drunkenness, 19 to 1. Since these ratios are considerably higher than the general ratio for all offenses, they indicate an area of more characteristic male activity or greater male liability for apprehension. At the other end of the scale, the sex ratios considerably under the general ratio are criminal homicide, 10 to 1; disorderly conduct, 7 to 1; other sex offenses (not rape and not prostitution), 6 to 1; violation of narcotic laws, 3 to 1; prostitution and commercialized vice, 0.3 to 1. This last offense is a peculiar liability for arrest and detention of females in American society. Liability for and participation of females in drug

[1] Children's Bureau, U. S. Department of Labor, *op. cit.*, p. 47. Calculated from statistics on type of offense by sex.

violation are much greater than other forms of offense, although not a characteristic female offense, as is prostitution. The same is true of disorderly conduct, other sex offenses, and homicide in American life.[1]

In general, the same sorts of differential participation and liability to arrest and conviction are reflected in the sex ratios of prisoners who were sent from courts to prisons in the United States during 1936. For all offenses, the sex ratio was 19.5 to 1. Rape, again, was an exclusively male crime; prostitution and commercialized vice combined were a typically female offense (1.4 to 1). The offenses much more disproportionately male offenses than average for all crimes were burglary, 105 to 1; auto theft, 131 to 1; robbery, 74 to 1; violation of traffic laws, 57 to 1; carrying weapons, 37 to 1; embezzling and fraud, 34 to 1. The offenses much less disporportionately male than average for all crimes were disorderly conduct, 3 to 1; other sex offenses (than rape and commercialized vice), 3 to 1; nonsupport and neglect of family, 5 to 1; violation of drug laws, 6 to 1; homicide, 11 to 1.[2]

The sex ratios for reported indictable offenses against which the police proceeded in England and Wales during 1936 are found to be as follows: for all indictable offenses, 7.2 males to 1 female; offenses against property with violence, 47 to 1; malicious injuries to property, 34 to 1; offenses against the person, 11 to 1; offenses against property without violence (usually theft), 6 to 1; forgery and offenses against currency, 4 to 1.[3]

Sex ratios for selected offenses taken from the police statistics on nonindictable offenses in England and Wales in 1936 which correspond more or less to misdemeanors and quasi-criminal acts in America, are as follows: for all nonindictable offenses, 9.3 males to 1 female; poaching (violation of game laws), 578 to 1; begging, 26 to 1; neglecting to maintain family, 24 to 1; offenses against firearms acts, 19 to 1; betting and gaming, 12 to 1; disorderly behavior, 7 to 1; drunkenness with aggravations, 7 to 1; simple drunkenness, 4 to 1; common assaults, 2.8; Sunday trading, 1 to 1; prostitution, all female.[4] Hunting is exaggeratedly a male offense because it is so thoroughly a male pursuit. Begging is disproportionately a male activity and a male liability to arrest. Prostitution, by definition, practice, and liability, is typically a female activity in England. Common assaults are a type of offense in which women in England can

[1] U. S. Department of Justice, Federal Bureau of Investigation, *op. cit.*, p. 217. Ratios computed from the reportings on offenses by sex.

[2] Bureau of the Census, U. S. Department of Commerce, *Prisoners in State and Federal Prisons and Reformatories* 1936, p. 12, Washington, D. C., 1938. Ratios computed from reports on offenses by sex.

[3] Ratios computed from figures reported in *Criminal Statistics of England and Wales* 1936, pp. 93–95, London, 1938.

[4] *Ibid.*, pp. 97–99.

participate more extensively than other offenses and for which they are more liable to arrest; Sunday trading, likewise.

Turning to the judicial statistics of convictions in Germany during 1936, sex ratios for selected offenses are as follows: for all convictions against laws of the criminal codes, 6.5 males to 1 female; accidental injury to person (*fährlässige Körperverletzung*), 30 to 1; offenses against public decency, 16 to 1; grave bodily assault, 14 to 1; trespassing (*Hausfriedensbruch*), 12 to 1; fraud (*Betrug*), 8 to 1; stealing (*einfacher Diebstahl*), 4 to 1; insult (*Beleidigung*), 3 to 1; abortion (*Abtreibung*), 0.5 to 1.[1] Abortion is eminently a female liability, while women engage in and are held accountable more for criminal insults and petty stealing than in and for assaults and *Hausfriedensbruch*, which are more characteristic male crimes and male risks in Germany. The sex ratio for all convictions against laws other than those of the criminal code of the Reich was 4.7 males to 1 female. The ratio for offenses against automobile laws was 18 to 1; for offenses against pass laws, 2.8 to 1; for offenses against Sunday rest-day and closing-time laws, 1.8 to 1.

Apparently marked differences in sex ratios for the different forms of crime exist in every country. And apparently there are slight as well as marked variations in the sex ratio for similar types of crime from country to country and from one source of criminal statistics to another within the same country. All this goes to prove that for one reason or another there is a differential in opportunity for crime and in criminal liability, which operates selectively for crime generally and for specific types of crime on men and women.

There are also marked differences in the concentration within each sex group of offenders by types of offenses, as revealed by the percentage distribution of crimes for men and for women. The position taken here is that the proportional concentrations by type of offense within each sex group are not so important in indicating sex differentials in crime as the sex ratios by types of crime. For example, we find that 13 per cent of the boys and only 1 per cent of the girls in juvenile courts in the United States during 1934 were concentrated in burglarly, whereas the sex ratio for this offense is 92 males to 1 female. Or again, 7 per cent of the boys and 29 per cent of the girls were listed under offenses defined as ungovernable, while the sex ratio here is 1.4 males to 1 female. Examination of the arrests in the United States during 1937, filed from finger records, reveals that 7 per cent of the men and 2 per cent of the women were arrested for burglary, while the sex ratio in this offense was 61 to 1; that 11 per cent of the men and 12 per cent of the women were arrested for larceny, whereas the sex ratio for this offense is 13 to 1; 17 and 12 per

[1] Ratios computed from statistics published in the *Statistisches Jahrbuch für das Deutsche Reich*, pp. 529–593, Berlin, 1937.

cent, respectively, for drunkenness with a sex ratio of 19 to 1.[1] The sex differential in the various offenses is, therefore, more adequately revealed by sex ratios than by intrasex group percentage distributions.

Age Factor in Crime

The age factor in crime is revealed by a graph, which shoots precipitously up through the adolescent years, reaches its peak in the young adult ages, and tapers off with advancing age thereafter. The data from fingerprint records of arrests filed with the United States Federal Bureau of Investigation in 1937 show that the number of arrests increases for each successive age up to twenty-two years old and declines gradually thereafter. The age of prisoners received from courts in the United States in 1936 likewise shows an increase in crime and a decline in crime with advancing age.

One should cautiously avoid settling upon any one age as the age of the pinnacle of crime. For example, the age statistics of the arrest records filed with the Federal Bureau of Investigation during 1932 to 1935 indicate that age nineteen was the modal age, *i.e.*, the age of greatest crime concentration, whereas in 1936 the modal age was twenty-two. However, it is generally conceded that for the United States at the present time the age of maximum crime is reached somewhere in the young adult years of life between nineteen and twenty-four.

The juvenile court statistics of the United States indicate an increase in volume of offenders with advancing age up to sixteen years and then a decline. But this is not the reality. Actually more persons are offenders at sixteen than at fifteen, at seventeen than at sixteen, at eighteen than at seventeen, and so on, but the juvenile court statistics do not reveal this, since the jurisdiction of so many juvenile courts in the United States stops at sixteen and only some juvenile courts have jurisdiction up to seventeen or eighteen or twenty-one years of age. Instead of being handled in the juvenile court, the bulk of youthful offenders over sixteen is being handled in the regular courts, along with adults.

In Germany it appears that the age of maximum crime as judged by judicial statistics is probably reached somewhere around twenty-five. The maximum age concentration of persons found guilty of indictable offenses in England and Wales is between fourteen to sixteen in 1936 and sixteen to twenty-one in 1933. The reason for this seeming precocity of youth in England as against the United States, Germany, Italy, and France is not clear and may be due entirely to administrative policy of police and courts toward juvenile and adult offenders. If the precocity can be explained in this light, one might say that England holds its youth

[1] U. S. Department of Justice, Federal Bureau of Investigation, *op. cit.*, p. 217. Calculations, mine from original enumerations.

more accountable than its adults. If such an interpretation cannot be made, it is possible that the social order of England more than that of other countries brings out crime in youth.[1]

The statistics on preliminary hearings of offenders in France reveal that only 12 per cent of the cases in 1933 were under twenty-one years of age. Likewise, 12 per cent of the persons sentenced to prison in the same year were under twenty-one.[2] The statistics on prisoners sentenced in Italy in 1928 and 1933 indicate an older age concentration of offenders, although less so than in France. Approximately 17 per cent and 13 per cent fell under twenty-one years of age in 1928 and 1933, respectively.[3] Germany's judicial statistics of convictions in 1934 and 1936 showed only 11 and 13 per cent, respectively, of convicted offenders concentrated under twenty-one years of age.[4] The fingerprint records on police arrests filed with the United States Federal Bureau during 1937 indicate that 18 per cent of the cases fell under twenty-one years of age,[5] while 18 per cent of prisoners received by prisons and reformatories from courts in the United States during 1936 were under twenty-one years of age.[6] On the other hand, bearing out England's precocity in crime as compared with other countries, approximately 50 and 43 per cent of the persons found guilty of indictable offenses in England were concentrated under twenty-one years of age in 1936 and 1933, respectively.[7]

Age Distribution of Offenders in Proportion to Population

Obviously, there is no uniform distribution of crime by age groups for all times and places. The peak of maximum crime for any age group or any single age seems to vary for different countries and for different sets of criminal statistics within any country which reflect slightly different sorts of liability. Generally speaking, the age of maximum criminality is reached precipitously in youth or young adulthood, and from this point on there is a progressive decline in amount of crime with advancing age. The progressive decline in amount of crime with each

[1] See *Criminal Statistics of England and Wales* 1936, p. xxii, London, 1938; also *Criminal Statistics of England and Wales* 1933, p. vii, London, 1935; also *Statistical Abstract for the United Kingdom*, 81st number, pp. 110–111, London, 1938, which lists rates for the various age groups that bear out the precocity of offenders.

[2] *Annuaire statistique* 1936, p. 79, Imprimerie Nationale, Paris, 1937.

[3] *Statistica degli Istituti di Prevenzione e di Pena e dei Reformatori*, p. 3, Istituto Poligrafico dello Stato Libreria, Roma, 1936.

[4] *Statistisches Jahrbuch für das Deutsche Reich*, p. 594, Berlin, 1937.

[5] *Uniform Crime Reports*, *op. cit.*, p. 219.

[6] U. S. Census, *Prisoners in State and Federal Prisons and Reformatories* 1936, p. 42, Washington, D. C., 1938.

[7] See *Criminal Statistics of England and Wales* for 1936 and 1933, *op. cit.*, p. xxii for 1936; p. vii for 1933.

successive age group is, however, much faster than the decline in population in advancing age groups. In the United States the volume of crime declines faster than the volume of general population, as judged by the percentages in the various age groups after twenty-five years of age. The percentages in the age groups of the general population of the United States in 1930 were: under fifteen, 29.4; fifteen to nineteen, 9.4; twenty to twenty-four, 8.9; twenty-five to twenty-nine, 8; thirty to thirty-four, 7.4; thirty-five to thirty-nine, 7.5; forty to forty-four, 6.5; forty-five to forty-nine, 5.7; fifty and over, 17.2. The percentages in the corresponding age groups for arrests during 1937 (F.B.I. fingerprint records) were: 0.7, 13.8, 20.4, 16.8, 13.5, 11.9, 8.3, 5.9, 8.7; for prisoners received from courts by prisons and reformatories in the United States during 1936: 0 (less than one-tenth of 1 per cent), 13.1, 24.8, 19.5, 13.5, 10.6, 6.8, 4.6, 7.[1]

In England and Wales the number of persons found guilty of indictable offenses during 1935 per 100,000 estimated population in each age group is given for males and females as follows: males—under seventeen, 998; seventeen to twenty-one, 647; twenty-one to thirty, 439; thirty and over, 163; females—under seventeen, 64; seventeen to twenty-one, 89; twenty-one to thirty, 61; thirty and over, 47.[2] The conviction rates per 100,000 population for various age groups in Hungary in 1930 are quoted as follows: twelve to seventeen, 408; eighteen to twenty-one, 845; twenty-two to twenty-nine, 1226; thirty to forty-nine, 902; over fifty, 398.[3]

Explanation of Age Curve in Crime

Undoubtedly, the laws of organic growth and decline have something to do with the age curve of crime.[4] But the social order, which has its channels of advancing and retarding individuals in various pursuits, has as much or more to do with the age curve of crime than have the laws of organic growth. There are more opportunities for youth to be rampant, to take risks, to get demoralized or disorganized, than there are for persons in the older ages. The older we get and the more that social institutions grip us, the more we reach a point of character stabilization

[1] See *Uniform Crime Reports, op. cit.*, p. 219; *Prisoners in State and Federal Prisons and Reformatories, op. cit.*, p. 42. Calculations made from enumerations.

[2] *Statistical Abstract for the United Kingdom*, 81st number, pp. 110–111, London, 1938.

[3] Hacker, *op. cit.*, p. 364.

[4] Aschaffenburg in discussing the age curve of crime says that "the actions of youth bear the stamp of impulsiveness." His explanation emphasizes the psychological stages of age maturation with some attention devoted to the relative disability of various ages in the social order. See Gustav Aschaffenburg, *Crime and its Repression*, translated by Adalbert Albrecht, pp. 139–157, Boston, 1913.

and the less we can tear loose from moorings of institutions and character stability. After all, there are relatively few reversals of form in later years—very few Gauguins among us. Insanity, vagabondage, and drunkenness are our major opportunities to shake off the fetters of normal social life in later years.

Superficially, crime appears to be a fast-rising storm of youth or young adulthood with considerable tapering off, which might be interpreted to follow the cycle of organic maturation and decline. But its curve is not so meteoric in rise and fall as is the curve of vigor and decline of professional boxers or short-distance runners, but is quite opposite to the maturation and collapse of businessmen, bankers, politicians, and schoolteachers.

Besides this normal settling-down process which results from the pressure of the social order, society removes the severest cases of offenders from the social scene by imprisonment and sometimes by the death penalty. It is doubtful, however, that this removal is large enough and long enough to have more than a slight effect on the age curve of crime. Theoretically, if society did nothing about its recidivists and allowed them to accumulate unimpeded, and theoretically, if the majority of first offenders continued on in crime and the recidivists themselves remained in criminal careers, the age curve of crime would not have its present form and individuals in ordinary criminal careers would not wind down any sooner than politicians, businessmen, bankers, actors, and so forth.

Sex by Age

From the United States juvenile court statistics, boys seem to get started in delinquency somewhat earlier than girls, as is revealed by the fact that 43 per cent of the boys' and only 29 per cent of the girls' delinquency cases, in juvenile courts during 1934, fell under fourteen years of age. Likewise, in England and Wales males proportionally get into crime earlier than females, as is shown by the fact that 18 per cent of the males and 9 per cent of the females found guilty of indictable offenses in 1936 were under fourteen years of age.[1] The male age group with the highest rate per 100,000 population for indictable offenses in 1936 was fourteen to sixteen (1,053 per 100,000), while the female age group with the highest rate was sixteen to twenty-one (93 per 100,000).[2]

The data on arrests from fingerprint records filed with the United States Federal Bureau of Investigation during 1937 reveal that a greater proportion of men than women (24 *vs.* 12 per cent) were found in ages

[1] *Criminal Statistics of England and Wales* 1936, pp. xix–xx, London, 1938: 13,704 out of 63,852 males; 755 out of 8,933 females.

[2] *Ibid.*, pp. xix–xx.

above forty; a greater proportion of women than men (57 *vs.* 44 per cent) in ages eighteen to thirty; slightly more men than women (6.5 *vs.* 5.3 per cent), under eighteen.[1] It is possible that men in the United States remain more criminally liable and active in middle and advanced ages than do women, but it is also possible that women report their ages younger than men, both of which factors could explain the sex-age variation in this series of data.

The age distribution for men and women prisoners sent from courts to penal institutions of the United States during 1936 shows very little disparity at the younger and older ages. For example, of the male prisoners received from courts, 17.9 per cent were under twenty-one years of age; 37.9 per cent, under twenty-five; 18.4 per cent, over forty. Of the female prisoners received from courts, 18.9 per cent were under twenty-one years of age; 38.3 per cent, under twenty-five; 17.2 per cent, over forty.[2]

The statistics on persons convicted (sentenced) by courts in Germany during 1936 reveal that of the males, 11.1 per cent were under twenty-one; 62.3 per cent, twenty-one to forty; 26.6 per cent, over forty. Of the females, 12.1 per cent were under twenty-one; 53.9 per cent, twenty-one to forty; 34 per cent, over forty.[3] The men in this series appear to be acted on more in young adult ages, less in middle and advanced life, and no earlier, *i.e.*, under twenty-one, than women—a conclusion which is at variance with American data. Why the cases of offending women should be acted upon more in advanced ages and less in the young adult period than those of men is not clear, unless the difference is accounted for by differential court policy.

The sex-age differential in crime is, therefore, an uncertain and undetermined quantity, and statements regarding the question as to whether males are more likely to appear as offenders earlier or later in life than are women must be taken cautiously and guardedly because of so many varying and selected factors other than sex and age.

Type of Offense by Age

Apart from the age curve or age concentrations above or below a certain age for crime generally in any country, one should expect considerable variation in a study of the age factor by different types of crime. Explanations of these differences are not always clear and apparent. It may be that certain types of criminal behavior or law

[1] U. S. Department of Justice, Federal Bureau of Investigation, *op. cit.*, pp. 223–224. Percentages, mine.

[2] U. S. Census, *op. cit.*, p. 42. Calculations, mine from the raw enumerations of age and sex.

[3] Calculated from enumerations given in the *Statistisches Jahrbuch für das Deutsche Reich*, *op. cit.*, p. 594.

violation act selectively on persons of older and younger ages, *i.e.*, present greater professional opportunity to persons of such and such age level. For example, we might say that burglary acts selectively on persons in the young, daring, active ages of life, whereas fraud and counterfeiting act selectively against youth. On the other hand, it may be that persons in such and such age levels of a society run more risk to be held officially accountable for certain types of offenses.

The age concentrations by type of offense in the available American data indicate quite clearly that there are important differences in the age factor of various crimes. They are not presented with the idea of inferring that the same age variations will obtain for types of offenses in other countries and different sociopolitical orders. In the arrests reported to the Federal Bureau of Investigation during 1937 the proportion of offenders under twenty-five years of age for both sexes varied markedly for the different types of offenses. The proportion under twenty-five for all offenses was approximately 35 per cent. But for auto theft it was 73 per cent; for burglary, 62 per cent; for robbery, 54 per cent; for rape, 48 per cent; for road and driving laws, 43 per cent—all of which show considerably higher concentration in the youthful ages than do offenses generally. On the other hand, the percentage under twenty-five for driving while intoxicated was 18; for offenses against family and children, 18; gambling, 19; violation of liquor laws, 21; embezzlement and fraud, 22; violation of drug laws, 22; arson, 27—all of which show a marked concentration in the older ages.[1]

The age data on prisoners received from courts in the United States during 1936 also indicate visible differences in the age factor by different types of offenses. The percentage under twenty-five years was 38 for all offenses; 66 for auto theft; 56 for robbery; 52 for burglary; 11 for violating drug laws; 13 for embezzlement and fraud; 18 for violating liquor laws.[2]

It is also clear that males and females vary considerably in age concentration by different offenses, although they do not vary much for the percentage under twenty-five in total offenses. Returning to the American arrest data, one notices that 18 per cent of the men arrested for offenses concerned with prostitution were under twenty-five years of age, while 40 per cent of the women so arrested were under that age. Of the males arrested for "other sex offenses" (not including rape or prostitution), 27 per cent and of the females, 48 per cent were under twenty-five years of age; of the males, 17 per cent and of the females, 54 per cent for violations of narcotic laws; 17 per cent and 44 per cent

[1] U. S. Department of Justice, Federal Bureau of Investigation, *op. cit.*, pp. 219–224. Calculated by eliminating ages unknown. Calculations, mine.

[2] Bureau of the Census, *op. cit.*, p. 640–641. Calculations, mine.

for offenses against family and children; 30 per cent and 48 per cent for disorderly conduct; 14 per cent and 26 per cent for drunkenness; 34 per cent and 51 per cent for vagrancy.

In the data on prison admissions from courts of the United States in 1936, 18 per cent of the males and 54 per cent of the females committed to prison for sex offenses (other than rape) were under twenty-five years of age. Other percentages are 9 and 19, for violation of drug laws; 18 and 8 for violation of liquor laws; 52 and 66 for burglary.

While men and women of different age levels have differential opportunities and liabilities for various types of offenses in the United States, no claim is made that these differences apply to other countries or for all times. In other words, such differences are not absolutes but are merely relatives current in one country at one time. As the sociolegal order of America changes, we should certainly expect changes in the age-and-sex factor in crime.

The Factor of Race and Nationality

Race, nativity, and nationality factors in crime appear to be of importance mainly in a heterogeneous society, in which peoples differing in race, nationality, and nativity occupy various levels of a minority status. Because of varying positions, minority peoples as compared with members of the dominant group have differential opportunities to be violators, differential liability to be arrested and convicted for violations; and they face differential problems of social adjustment. There is no reliable evidence to prove that races or nationalities possess any special inborn tendency for crime, although certain racial or national groups sometimes display visible differences in types of offenses as determined by tradition or custom.

As an example of a heterogeneous country we may consider Hungary, which engulfs varying numbers of representatives of bordering European nationalities, each presenting different backgrounds, different problems of adjustment and participation, and somewhat different levels of community life. The following 1930 conviction rates per 100,000 respective populations are reported: Hungarians, 774; Germans, 290; Slovaks, 428; Rumanians, 537; Ruthenians, 232; Croatians, 307; Serbians, 361; Gypsies, 4,525; others, 339.[1] Hungary is just one of many countries in the world today possessing peoples of different nationality and race who live under varying conditions of life and occupy varying positions in the social scheme. If sociologists in the future are able to explain the intricacies of differential crime among various racial and national minorities, they will make a most important contribution to a comparative criminology. The present state of knowledge on differential crime among

[1] Hacker, *op. cit.*, p. 364.

racial and national minority groups is still inadequate and nebulous and is fraught with inconsistencies and unexplainable conclusions. The only point that is truly certain is that differentials in crime do exist, and should be expected to exist, for different groups of people of minority status.

To a large extent, race, nationality, and nativity factors operate as class factors in crime, since peoples in minority groups appear at a disadvantage in many indexes of comparison with dominant groups, just as the lower classes appear disadvantaged in reference to upper classes in a capitalistic society. The supposition is, therefore, that races, nationalities, and foreign-born groups in any country, community, or region, occupying a definite minority-group status, by virtue of their position in the social order possess certain disabilities that place them in a category of greater risk for violating the laws of the dominant group and for getting apprehended when they do violate the laws. According to Sellin,

> There is ample evidence to show that the immigrant suffers from differential treatment in the process of law administration. This is partly due to his origin, partly to his economic and political status. Whatever the reason he is more likely to be arrested and convicted, and when sent to prison he is likely to go with a heavier sentence than is the native born. Membership in an immigrant group, especially when the social distance between that group and the dominant community group is great, means artificially raised crime rates and the researcher is compelled to take this into account in his studies.[1]

To some extent, also, the various racial, nativity, and nationality groups of a heterogeneous country or community display different planes of social adjustment to the total social order: some maintain a highly compact organization capable of exercising adequate control over the behavior of members, while some are demoralized; the cultural patterns of some conflict more with the dominant order than do those of other groups; some are prepared by their background to make a pretty good adjustment to exigencies of a heterogeneous society, while others are poorly prepared; some occupy more favorable economic levels than others; some are exposed to graver problems of urbanism, industrialization, and mobility than are others. All these factors, besides those of legal and social disabilities, contribute in some part, not very well isolated or established as yet, to the favorable or unfavorable showing a racial or foreign-born nationality group will make in breaches of or contact with the law of the dominant people in a heterogeneous society.[2]

[1] SELLIN, THORSTEN, *Culture Conflict and Crime*, Social Science Research Council, Bulletin 41, p. 73, New York, 1938; see, also his "Race Prejudice in Administration of Justice," *American Journal of Sociology*, Vol. 41, pp. 212–217, 1935.

[2] For the most formidable extant analysis of the differential showing in crime of various racial, nativity, and nationality groups, see SELLIN, THORSTEN, *Culture*

In view of the intricacies of the problem, it is feasible to mention only a few selected instances of differential criminality among minority groups. Most of this material will be taken from the United States, where the greatest quantity of data on this problem has accrued.

Ghetto and Community Organization

Certain racial, nationality, and foreign-born groups, in spite of occupying a minority status, are able to control the lives of their members, by virtue of traditionally strong community organization, to offset the risks of demoralization. This is suspected, although not proved, of the Jews, who have enjoyed a reputation for maintaining great solidarity in alien lands, in urban life, and in the face of adversity and persecution.[1] The Japanese in foreign countries, particularly in America, where the point has been noted, have shown a very favorable crime record, one conspicuous for the almost negligent amount of violation of law. This was found true of the Japanese in San Francisco and Stockton, Calif., as well as in other communities and sections of the United States.[2]

The explanation of the favorable showing of the Japanese in crime in America is to be found in their social efficiency for living in an alien land, which in turn is explained by the extension of paternalistic aid to and close surveillance of Japanese in foreign lands by agencies of the home government, by a tradition for orderliness and subordination to authority, and by the prevailing attitude of not bringing disgrace upon Japan—of not hurting Japanese face—by misconduct abroad (or conversely of saving face by being visibly law-abiding). W. C. Smith, who has also taken cognizance of Japanese orderliness and negligible criminality in America, puts the matter in the following way:

> Outside the grosser crimes, the affairs of the Japanese seldom come before the public eye, because of the unofficial system of regulation within the group. The secretaries of the Japanese Associations have settled many difficulties between members of their own group and those of other races and thus have avoided unfavorable publicity. The Japanese are solicitous in counselling their children

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Conflict and Crime, Social Science Research Council, Bulletin 41, pp. 57–116, New York, 1938.

[1] See Wirth, Louis, *The Ghetto*, pp. 216–223, Chicago, 1929; also, see J. B. Maller's finding that Jewish children in New York City are disproportionately under-delinquent for their population ("Juvenile Delinquency among the Jews in New York," *Social Forces*, Vol. 10, pp. 542–549, 1932); also, see Sophia M. Robison, *Can Delinquency be Measured?*, pp. 75, 96–97, 142–144, 183–185, 208–209, New York, 1936.

[2] See Paul S. Taylor's studies in the National Commission on Law Observance and Enforcement, *Report on Crime and the Foreign Born*, no. 10, pp. 365, 380, Washington, 1931.

to commit no act which might tarnish the family name or disgrace their racial group in the eyes of the Americans.[1]

Smith cites delinquency rates in Honolulu, which show that the Japanese have the lowest rates of Oriental racial groups in the city.[2] In one small district in the central region of Seattle, occupied overwhelmingly by Japanese, Hayner indicates that the delinquency rate of boys was several times smaller than the rate for the larger encompassing central area. The larger area by every index was unquestionably a crime- and delinquency-breeding district. Yet the Japanese appeared able to stem the forces of demoralization and disorganization by their strong family life and strong community organization.[3] Hayner cites summarized cases to suggest that the Japanese boy delinquent is one who for one reason or another is likely not to have "come into vital contact with the racial colony," *i.e.*, is not fully incorporated within the pale.[4] Lind also indicates, from researches in Honolulu, that delinquency among Japanese was much greater in an area in which the Japanese were "mixed rather indiscriminately with the rest of the population," than in an area which was almost solidly Japanese.[5]

It is probably not only the strength of family life and community organization of the Japanese but also the amount of isolation, preventing participation in and response to the heterogeneous world beyond the racial colony, which operate to hold down the crime and delinquency rates of the Japanese in American communities. Under conditions of breakup of isolation, of deculturalization, and of emancipation of Japanese in American communities, one would expect to find a greater amount of demoralization among the second generation.

Bearing directly on this point, the results of a study of a Russian peasant immigrant religious sect, the Molokans, in Los Angeles, by Pauline Young are very suggestive. Transplanting a morally rigid primary group life to American fast-growing urban soil, it was found that, of the few male members who broke through the traces of rigid control and became delinquent, the majority came from the youngest age groups (nine to nineteen years of age). They comprised the children who were born in America, were reared at the time when the solidarity of the

[1] SMITH, WILLIAM CARLSON, *Americans in Process*, p. 218, Ann Arbor, Michigan, Edward Brothers, Inc., 1937. By permission of William Carlson Smith, copyright holder.

[2] *Ibid.*, p. 214.

[3] HAYNER, NORMAN S., and CHARLES N. REYNOLDS, "Delinquency Areas in the Puget Sound Region," *American Journal of Sociology*, Vol. 39, p. 319, 1933.

[4] *Ibid.*, p. 319.

[5] LIND, ANDREW W., "The Ghetto and the Slum," *Social Forces*, Vol. 9, pp. 209–210, 1930.

sect was weakening under impact from American life, and had witnessed a growing conflict between the ways of the younger and the older generation. The oldest group of children (age twenty-five to twenty-nine), from the few families possessing delinquents, were all born in Russia, were reared in America when the solidarity of the sect was the greatest, were married off when they were eighteen or nineteen years of age, and were well incorporated in the traditions and religion of their fathers. This group showed very little delinquency. The intermediate age group (age twenty to twenty-four) was born in America, received more schooling than the oldest group, mingled with boys of other cultural groups in play and leisure time, but was fairly well stabilized. It showed an amount of delinquency intermediate between youngest and oldest brothers.[1] The point is apparently that, when solidarity and isolation of a racial or cultural ghetto cannot be maintained because of deculturalization of the younger generation, we should expect an increase in delinquency and crime among members of the minority group.

Minority Groups Presenting a Weak Social Base

There are, on the other hand, racial and national groups which, because of historical accident and tradition, have a rather weak community organization and can do very little to shield their members against the demoralizing influences and the risks of a strange and complicated land. Some of the immigrant groups in the United States, which came from the less-advanced peasant and rural areas of southern and eastern Europe before the World War and settled in the most disorganized parts of the large industrialized cities, have shown considerable weakness in providing a strong social base for their members in a complex alien environment. The Negro migrant from the rural sections of the southern United States to northern cities likewise displays considerable weakness in a community and family life which can counteract the forces of demoralization.[2] The Mexican immigrants in the United States, especially those who came in response to opportunities for seasonal and unskilled labor, represent another minority group whose transplanted social base is inadequate to shield its members against demoralization and discrimination.

The Mexican Immigrant

In a special study of Mexicans in Illinois, principally concentrated in Chicago, Warnshuis denies the claim that they are more criminally

[1] Young, Pauline V., *The Pilgrims of Russian-Town*, pp. 201–210, Chicago, 1932; see, also, her "Urbanization as a Factor in Juvenile Delinquency," *Publications of the American Sociological Society*, Vol. 24, no. 2., pp. 162–166, 1930.

[2] See material presented on pp. 51–55.

inclined than any other racial or national minority group. He contends that the Mexican immigrant has great difficulty in making satisfactory adjustments to conditions of life in the United States, since his cultural background (really an Indian folk background) provides very little preparation for meeting the complexities of urban, machine-age American civilization. Being a new arrival, the Mexican immigrant is ignorant of American laws and faces insecurity of job. He tends to get arrested for trivial causes; he is at a disadvantage when handled by police and courts. Hence, his rate of arrest and conviction should be expected to be disproportionately high.[1]

Taylor discovered that volume of crime among Mexicans in proportion to population varied considerably by localities in the United States—in some places somewhat disproportionately higher and in other places somewhat disproportionately lower than the general crime rates, although the evidence for disproportionately higher crime rates probably outweighs the instances of lower crime rates.[2]

In sample areas of Texas, the state with approximately half the Mexicans in the United States, Handman was unable to find that the Mexicans were excessively criminal for their proportion of the total population.[3] Handman also suggests that the preponderant crime of Mexicans at home is aggravated assault and that murder, burglary, theft, fraud, deception, and sex crimes are not so prevalent. In the United States, aggravated assault (with a knife) is likely to be an outstanding crime of the Mexican immigrant; seduction (not really a crime in Mexican eyes) is his main sex offense; the offenses of fraud and deceit still persist in being low; theft and burglary probably increase among the Mexicans in the United States.[4]

Negro Crime in the United States

The arrest data filed with the Federal Bureau of Investigation in the United States during 1937 indicate that Negroes have a rate of arrest almost three times as high as native-born whites (1,412 as against 517 per 100,000 in the respective populations, fifteen years of age and over).[5]

[1] Warnshuis, Paul Livingstone, *Crime and Criminal Justice among the Mexicans of Illinois*, pp. 125–126, M.A. thesis, University of Chicago, 1930; also duplicated in National Commission on Law Observance and Enforcement, *Report on Crime and the Foreign Born*, no. 10, pp. 265–329, especially pp. 328–329, Washington, 1931.

[2] Taylor, Paul S., "Crime and the Foreign Born: The Problem of the Mexican," National Commission on Law Observance and Enforcement, *op. cit.*, pp. 235–243.

[3] Handman, Max Sylvius, "Preliminary Report on Nationality and Delinquency: The Mexican in Texas," National Commission on Law Observance and Enforcement, *op. cit.*, pp. 250–253.

[4] *Ibid.*, pp. 254–258.

[5] U. S. Department of Justice, Federal Bureau of Investigation, *op. cit.*, p. 234, Washington, D. C., 1938.

Likewise, the Negro has comprised a disproportionately large part of the inmates in and commitments to penal institutions of the United States—a part much greater than their share of the general population.[1]

The explanation for this great difference lies in the greater problems of adjustment facing Negroes than those facing whites in the United States, and the greater liability of Negroes than that of whites to be arrested by police and to receive differential justices in the legal process—all of which factors are incidental to the minority-group status of the Negro.

In the Union of South Africa, where the Negroid population comprises a minority group in reference to European white domination, the native Negroid population appears to have a much higher rate of serious crimes than the European whites. According to 1936 data, 19,170 convictions for serious crimes are reported for natives; 2,009, for Europeans; while the respective populations are listed at 6,597,241 and 2,003,512.[2]

Returning to the arrest data of the United States, there are only two types of offenses in which the native white rate exceeds the Negro rate: driving while intoxicated (26.8 *vs.* 19.4 per 100,000 respective population of fifteen years and over), and forgery and counterfeiting (9.3 *vs.* 8.1). This might be explained by the greater inaccessibility of automobiles and of professional forgery and counterfeiting skills to the Negro. In all other types of offenses the Negro in America leads the whites. In homicide and assault the disparity between black and white races is slightly greater than the ratio for all offenses. But for drunkenness the disparity in rate is very much under the ratio for all offenses. In rape, vagrancy, burglary, and disorderly conduct the disparity is just slightly below the disparity in rates for all arrests.[3] The first six highest ranking charges for the native whites in the 1937 arrest data were in order: drunkenness, larceny, vagrancy, burglary, driving while intoxicated, disorderly conduct; the first six for Negroes: larceny, assault, drunkenness, vagrancy, burglary, disorderly conduct.[4]

Negro as well as native white offenders are mainly concentrated in the young adult ages. But the Negro offenders are slightly more concentrated in the age groups up to forty than are the native white offenders,[5] which might mean that Negroes do not live as long as whites (which is true), that Negroes settle down somewhat more quickly than whites,

[1] The data covering this point are summarized by Edward Byron Reuter, in his work on *The American Race Problem*, rev. ed., pp. 338–339, 341, New York, 1938.

[2] Union of South Africa, Union Office of Census and Statistics, *Official Year Book of the Union*, pp. 426, 1046, Government Printer, Pretoria, 1937.

[3] *Uniform Crime Reports, op. cit.*, p. 236.

[4] *Ibid.*, p. 236.

[5] *Ibid.*, p. 237.

that there is less opportunity for older Negroes to commit crimes, and that Negroes are removed longer or more permanently from further crime (by imprisonment or death) than the whites.

As measured by statistics of commitment to prisons of the United States, the criminality of Negroes is disproportionately higher in Northern states than in Southern states, when one considers the proportion Negroes occupy of the total population and total commitments in the various states.[1] In Northern states of the United States, the Negro is a recent immigrant to cities in which he concentrates, thus facing grave problems of adjustment to unused urban conditions of life. Studies of Negro crime in Northern cities indicate that he faces severe tests of disorganization, incident to his shift from the rural life of the South, in addition to his differential liability to arrest and conviction.[2] Historically and traditionally the rural South is the Negro's home in America. It is the place to which he has built up a good adjustment to a simpler life and to the domination of white masters. Much of his petty criminality is overlooked, *i.e.*, not officially noticed, in Southern states. It might even be said that white society in the South is easier on the Negro for petty offenses but harder on him for severe offenses than white society in Northern cities.

Crime of Foreign-born Whites in the United States

According to fingerprint records on arrests filed with the United States Federal Bureau of Investigation in 1937, the rates of arrest per 100,000 persons fifteen years of age and over were 212 for foreign-born whites, 517 for native-born whites, and 1,412 for Negroes.[3] From this source of data the foreign-born whites in the United States, who are almost entirely European immigrants, display considerably less criminality or liability to arrest than native-born whites and very much less than Negroes, although some authorities believe that the immigrants violate the law in the United States more than they did at home.[4] The data on prisoners received from courts in the United States during 1936 also reveal that the foreign born are much lower in admissions to penal institutions in proportion to their population fifteen years of age and over than are native whites and very much lower than Negroes: 5 per cent received by prisons *vs.* 15 per cent of the population; 73 per cent of prison admis-

[1] Reuter, *op. cit.*, p. 342.

[2] See pp. 51–55.

[3] *Uniform Crime Reports, op. cit.*, p. 234.

[4] Sutherland contends that "immigrants to America have a higher rate of serious crimes than their brothers at home have." See *Principles of Criminology*, p. 113, Philadelphia, 1934.

sions *vs.* 74 per cent of the population; 25 per cent of prison admissions *vs.* 10 per cent of the population.[1]

Making an intensive analysis of crime among the foreign born as of 1930, Bowler came to the following conclusions:

> That in proportion to their respective numbers the foreign born commit considerably fewer crimes than the native born.
>
> That the foreign born approach the record of the native white most closely in the commission of crimes involving personal violence.
>
> That in crimes for gain (including robbery, in which there is also personal violence or the threat of violence) the native white greatly exceed the foreign born.
>
> That in the commission of certain types of offenses there is considerable variation among the different nationalities within the foreign-born group, but that the detailed data as yet available are insufficient, both as to quantity and accuracy, to warrant the formation of any final conclusion as to the comparative criminality of any particular groups.[2]

The patent fact that foreign-born whites have lower arrest and commitment rates than native-born whites needs a word of explanation. This conclusion goes far to allay the suspicion, which many have entertained, that European immigration emptied the criminal elements of Europe into the United States. Even in spite of greater ignorance of the law, greater liability to be officially detained, and greater clash of old with new norms of conduct, the foreign-born whites have a more favorable crime record than the native-born whites. It is likely that ghetto life of first-generation immigrants is fairly isolating and restricts participation and contact, which would lead to crime and liability to arrest. On the other hand, the foreign-born white crime rates look favorable because the native-born white rates are traditionally high. The first-generation immigrant groups are undoubtedly higher in violation of law in America than at home, but they appear to advantage because the tempo of life in the United States fosters a relatively high rate of lawlessness. The comparative crime showing of the foreign- and native-born white groups in the United States should, therefore, not be taken as an indicator of what is typical of alien-born minorities in other countries.

Using 1933 commitment data on foreign-born white male prisoners, Taft demonstrated quite conclusively, from rates corrected for disparate age distributions, that the commitment rates were in most instances much higher for the foreign born from countries of southern and eastern

[1] U. S. Department of Commerce, Bureau of the Census, *Prisoners in State and Federal Prisons and Reformatories* 1936, p. 33, Washington, D. C., 1938.

[2] Bowler, Alida C., "Recent Statistics on Crime and the Foreign Born," National Commission on Law Observance and Enforcement, *Report on Crime and the Foreign Born*, no. 10, pp. 195–196, Washington, D. C., 1931.

Europe than for those from northern and western European countries.[1] It is possible that the foreign born from southern and eastern Europe encountered more difficulties of adjustment, were more ignorant and retarded, and concentrated more in crime-breeding slums of large industrialized urban centers than did those from northern and western Europe.

Arrest data from fingerprint records indicate that it is exceptional for foreign-born whites to exceed native-born whites or Negroes in any type of crime. The six highest offenses, according to rate of arrest per 100,000 population fifteen years of age and over, in 1937 for foreign-born whites, native whites, and Negroes are as follows:[2]

HIGHEST OFFENSES ACCORDING TO RATE OF ARREST, BY NATIVITY AND RACE, 1937

Native white		Foreign-born white		Negro	
D	86 7	D	36 7	L	201 3
L	58 6	L	18 6	A	150 7
V	46 8	V	16 4	D	120 1
B	33 0	Dc	12.8	V	107 3
Dx	26 8	Os	7.4	B	104 7
Dc	21 8	B	7 3	Dc	73 4

D = drunkenness
L = larceny.
A. = assault
V. = vagrancy
B = burglary.
Dc = disorderly conduct.
Dx = driving while intoxicated
Os = other sex offense (not rape and not prostitution)

Judging from this basis, there is not a great deal of difference in the numerically most prominent crimes leading to arrest and fingerprinting of the foreign-born white and the native-born white.

The arrest data indicate also that the foreign-born white violator is much more heavily concentrated in ages thirty-five and over and much less concentrated in the young adult age levels[3] than the native-born white offender. This conclusion is also substantiated by Stofflet, who found that the foreign-born white offenders are not only older than native-born white offenders, but also older than native-born offenders of foreign-born parents.[4]

THE CRIMINAL RECORD OF SECOND-GENERATION WHITES IN THE UNITED STATES

According to Taft, who reworked the 1933 data that gave the country of birth of parents for prisoners received, the foreign-born white males

[1] TAFT, DONALD R., "Nationality and Crime," *American Sociological Review*, Vol. 1, p 732, 1936.

[2] *Uniform Crime Reports, op. cit.*, p. 236.

[3] *Uniform Crime Reports, op cit.*, p. 237.

[4] STOFFLET, ELLIOTT HOLMES, "A Study of National and Cultural Differences in Criminal Tendency," *Archives of Psychology*, no. 185, p. 54, New York, May, 1935.

had a commitment rate of 43, while the native-born white males had a rate of 134. From analysis of 26 states that gave the birthplace of parents in 90 per cent or more of their prisoners, the male commitment rates of various nativity categories of the white population of the United States in 1933 were: 144, native whites of native parentage; 120, native whites of foreign parentage; 91, native whites of mixed parentage (one parent foreign born, one native born); 43, foreign-born whites.[1] In 17 of the 26 states in which the proportion of native parentage among the white population was greater than the proportion of foreign parentage, the male commitment rates of native whites of native parents were higher than those of native whites of foreign parentage, which in turn were higher than those of native whites of mixed parentage. In 9 of the 26 states where the percentage of foreign born was greater than that of native born in the white population, Taft found that the male commitment rates of the native whites of foreign parentage were higher than those of the native-born whites of mixed parentage, which in turn were higher than those of the native-born whites of native parentage.[2] This is partly explainable by the fact that these 9 states have a preponderance of the "new" immigrants from southern and eastern Europe whose children face grave adjustment problems, due evidently to greater cultural clash and to greater concentration in the slums of industrialized cities. In the 17 states where male commitment rates of the children of foreign born were lower than those of the children of native parents, the "old" immigrants from northern and western Europe predominate. It may be assumed that, being closer in cultural traits and standards of living to American whites, the "old" immigrants did not suffer from the maladjustments of cultural divergence so much as did the newer immigrants. And they did not get so engulfed in the large industrialized urban centers as did the newer immigrants. In fact, Taft discovered that, when commitment rates were corrected for variation in age distribution, the children of immigrants from southern and eastern European countries (the "new" immigrants) had a rate more than twice as high as the children of immigrants from northern and western European countries (the "old" immigrants). The former, as indicated, are not naturally or traditionally more criminal but have been exposed to more difficult problems of adjustment in the American scene.

Stofflet, while analyzing merely the native-born, foreign-born, and second-generation whites committed to penal institutions of New Jersey, arrived at several interesting conclusions that are very suggestive as well as plausible. Among other conclusions, it was found (1) that there is a distinct tendency for the type of offenses of various nationality groups

[1] TAFT, *op. cit.*, p. 725.
[2] *Ibid.*, p. 725.

in America to change with succeeding generations; (2) that a shift away from crimes of violence to predatory offenses in the second generation is noticeable—a shift which conforms to the American pattern; (3) the criminal careers of American-born Italians resemble those of native-born whites; (4) no evidence of any tendency for a particular type of crime to persist in succeeding generations could be found.[1]

Conclusion

Crime varies in type and volume by age, sex, class, race, and nationality categories of the population. While individuals in the lower class levels of a society are suspected of displaying greater risks and liabilities, owing to their sociological position, for getting involved in crime and for being acted upon officially, the data to prove this contention are not available. Examination of the age curve of the criminal population shows that persons in the young adult, postadolescent ages are disproportionately the most criminal in modern societies. The statistical chances of individuals' becoming violators appear to be less and less with advancing age. The age factor in criminality reflects a differential opportunity or risk of persons, by virtue of their age position in society, for getting into difficulties.

Males are disproportionately more criminal than females, because of the differential workings of social institutions on the two sexes and because of physical disabilities of females as compared with males. The differences in types of offenses by sex reveal the fact that certain offenses are much more characteristically male or female offenses. Such variations likewise indicate the differential workings of sociological and biological factors on the activity and participation of the two sexes.

Race and nationality variations in crime strongly suggest that these factors operate pretty much as class factors. Individuals of racial and national groups occupying a minority status are exposed to many of the same risks for getting involved and caught in crime to which individuals in the lower class ranks are exposed. Furthermore, individuals as a result of their membership in specific racial and national minorities are disadvantaged in reference to making adequate adjustments to the social order and codes of the dominant people, unless their groups are able to maintain strong counteracting systems of regulation over behavior.

The categoric risks for criminal violation, expressing themselves through age, sex, class, race, and nationality differentials, are highly significant to the comparative study of criminal behavior. While not causes of crime in and of themselves, they are undoubtedly more important to the study of criminology than is the very dubious knowledge of causes of crime and delinquency. They receive added potency and

[1] Stoffler, *op. cit.*, p. 54..

reenforcement from the factors making for instability in the social order and for areal and regional variations in crime. For example, a young adult male who is a member of a minority group and resides in an area of high crime rate in a modern city is a greater crime risk than the same type of man living in an area of low delinquency. He is also a much greater risk than a young adult male who belongs to the dominant group and resides in a small community. He is a very much greater risk than an old man living in a rural area. And finally, he is many, many times a greater risk than a middle-aged woman who is a member of the upper classes.

CHAPTER VII

THE FORMS OF ORGANIZED CRIME

When crime takes the form of carrying on illegal practices for the mutual advantage of bands, gangs, and associated individuals, it assumes the form of organized crime. Organized crime exists where there is association for the purpose of conducting an illicit trade.

It differs from ordinary crime in many important respects. The latter is conduct violation—a breaking of the rules. Ordinary crime grows out of the unadjustment of the individual to the rules of society and to the confronting social situation. It is likely to involve the demoralization of the individual.

Organized crime, on the other hand, is a concerted enterprise. It has a lore and a tradition behind it—a pariah or an underworld tradition. It emphasizes professional skills and is bolstered by appropriate criminal-class attitudes and a code of mutual aid and protection. The individuals in organized crime become partially or wholly segregated from respectable society as a result of their illicit pursuits and tend to belong to a criminal class. They plunder society and are in a chronic state of predatory war against society. They maintain an *esprit de corps* and a fairly high degree of morale. Persons engulfed in organized crime have developed criminal careers.

Companionate Crime

Companionship in crime is a common phenomenon in advanced societies. In fact, association in committing a criminal act is so common that it is expected. But is mere partnership—say, a twosome, threesome, foursome, or more—in the criminal deed a form of organized crime?

If the particular criminal deed shows signs of professional *modus operandi*, the probability is that the *participes criminis* are linked with organized crime. If the concerted criminal act shows signs of having been stumbled into or of being amateurish, the probability is that it is not linked with organized crime. Usually the partners in a professional criminal job have affiliations with a larger formal or informal criminal organization, *i.e.*, with other professional criminals, criminal hangouts, criminal fences, shyster lawyers, corrupt police or politicians. Members of a boys' gang who commit offenses as a spontaneous outgrowth of play activities are companions in crime but not in organized crime. However,

many gangs of older boys have become sophisticated in crime, follow a career in crime, have contacts with other professional criminals, have affiliations with criminal fences, corrupt lawyers, politicians, and police. Indeed one of the principal feeders to the ranks and cliques of organized crime in the modern American city is the boys' gang.

Types of Organized Criminal Pursuits

Generally speaking, organized crime is to be found in the most lucrative contraband pursuits, such as banditry, burglary, stealing, disposition of stolen goods (criminal fences), piracy, smuggling, counterfeiting, traffic in harmful drugs, commercialized vice, gambling, bootlegging, blackmail, kidnapping, extortion, and racketeering. Most of these criminal enterprises are historic—even ancient.

The line between organized criminal pursuits and odious professions is difficult to draw. Many enterprises, definitely pariah in tradition, are on the border of organized crime. Usurers, loan sharks, pawnbrokers, quacks, fakers, and so on—identified with a disreputable caste tradition—are even today frequently linked with organized crime.

Professional begging, which is sometimes highly organized, although most frequently loosely confederated, borders on organized crime. Society has never proceeded against it as forcefully as it has against other odious pursuits, since the mores of helping persons in distress have never enabled governments to adopt consistently strong punitive measures in order to suppress it. Vagabondage, in societies that have it, likewise possesses many features of a pariah career and draws very close to organized crime. Like professional begging, vagabondage has associated life, a lore, a code, and professional skills. Society has proceded against it lukewarmly and sporadically. For the most part, professional vabagonds have been too romantic and too closely related to casual labor and social dislocations for governments to treat them as criminals. Rather have they been treated as nuisances, vagrants, and objects of charity.

Variables in Criminal Organization

Samples of organized criminal activity can be drawn from many localities, pursuits, and types of criminal association. While it is impossible to describe all forms and gradations, several outstanding examples can be mentioned. There are so many variables in the manifestations of organized crime that it is almost impossible to reduce the gamut of criminal organization to a few fundamental types.

Before the examples are presented, certain variables can be singled out. In regard to the degree of organization and integration, we notice that there are professional partnerships in crime, there are loose con-

federations or affiliations of persons in criminal pursuits, and there are highly integrated criminal groups under powerful leadership. There are bands that seem to be loosely or informally organized without visible leadership and bands highly and formally organized, with subordinates carrying out orders from ascendant and all-powerful leaders. There are criminal groups that appear to be traditionally parasitical and predatory and have continuity for several generations, while there are also criminal organizations that have emerged in a short space of time and have a short span of life. Some criminal bands originate in self-protection, war, revolution, and political protest, acquiring or falling into predatory activities later in their course. Some have grown out of political chaos and corruption and thrive on the helplessness of organized government to deal with them. Some criminal bands prey on society solely, others war with one another for the right to pillage and exact tribute from society. Some practice extreme violence; others victimize the rich and help the poor. While practically all criminal organizations place a premium on solidarity and loyalty, some are definitely fraternal and ritualistic in character.

Banditry and Outlawry

Although many outlaw and bandit groups have been essentially criminal in origin and purpose, many have formed as a protest against dominant political authority and have removed themselves to outposts of political control. Such renegade bands are sometimes lawless and predatory but characteristically they indulge in guerrilla warfare with governments. They are most likely to develop on a frontier or in countries with weak and unstable central governments. In the latter instance, renegade bands may represent an uprising, *i.e.*, incipient revolution, or they may represent the escape of the losing forces in a rebellion.

As a result of the Philippine revolution, bands of discontented, unregenerate Filipinos, unwilling to yield to dominant political imposition, made swooping raids upon the constabulary.

Bandolerismo as a distinct crime is very recent in the penal legislation of this country. It must be borne in mind that it came into existence as a result of the chaotic conditions following the revolutionary wars. To suppress it, it became necessary that the Philippine Commission should pass a special law called "The Bandolerismo Act." During the years 1903 to 1905, *bandolerismo* continued to be the most flagrant infringement of public order in the Archipelago, rather than a simple attack upon property by a band of robbers. Witness the frequent raids made by bands of *bandoleros* upon the Constabulary. Hence, *bandolerismo* is herein classified as a crime against public order.[1]

[1] Villamor, Ignacio, *Criminality in the Philippine Islands* 1903–1908, p. 48, Bureau of Printing, Manila, 1909.

Chinese banditry, while primarily renegade in origin and revolutionary in significance, has secondarily been predatory for purposes of maintenance. Banditry in China, probably not well understood by outsiders, has been the traditional means of escaping despotism and a "falling" government. For the leaders of Chinese bandit groups, banditry has meant voluntary retirement until such time as they could serve the government again. While Chinese bandit leaders have been recruited from generals and war lords, their followers have mainly been soldiers. However, persons wishing to escape the monotony of life and individuals dislocated from family and community as a result of economic pressures have also joined bandit groups. Chinese bandits have had a code, like many romanticized bandits and outlaws of history, of doing a good turn for the poor. They rob the rich and give to the poor. They can plunder but are not supposed to rape. Communal mutual aid, a transference from traditional large family-village communism, is their way of living. Undoubtedly the old virtues of communal life have led the recent bandits of China to embrace Russian communism as the ideal sociopolitical order.[1]

The banditry that is essentially criminal rather than political in origin is more clearly illustrated by the bandits and bands of desperadoes on the American frontier. They were organized for pillage and were hunted by authorities as criminals, although, instead of criminal stigma attaching to them, a halo of romanticism grew up around them. The James brothers' gang, however, is the outstanding exception. It seems, much like the Chinese bandits, to have been political rather than predatory in origin. It began as a warring faction of Southern sympathizers against Federal troops in western Missouri and Kansas during the Civil War and seems to have become criminally predatory after hostilities ceased.[2] It may be, however, that in most countries outside the United States the political origin of bandit groups is more typical than the predatory origin.

Criminal Tribes of India

India has in the past been very fertile soil for concerted criminal pursuits as practiced traditionally by many low-caste groups. It has been a land of milk and honey for countless so-called criminal tribes, whose main existence was obtained from stealing, robbing, faking, and counterfeiting.

[1] Ching-yueh Yen, *Crime in Relation to Social Change in China*, pp. 208–209, Ph.D. dissertation, University of Chicago, June, 1934.

[2] *The Crittenden Memoirs*, pp. 143–151, 163–164, compiled by H. H. Crittenden, New York, 1936.

A vast amount of crime committed in India is hereditary, and has been for generations. Thus the natives guilty of such deeds do not imagine that they are committing any heinous offense, inasmuch as it is a natural result of their birth. There are vast criminal confederations which have for countless years made crime a profession, whose members, in other respects, are no worse than their fellow creatures; that is to say, outside their lawless deeds, which they do not consider criminal, they possess many good qualities.[1]

"The Bhamptas are the most determined and irreclaimable thieves and pickpockets." They practice no violence on victims but rely on uncanny dexterity. They are excellent linguists and have a secret code. Before the advent of the railroads, they wandered about the country in gangs, plying their trade in towns and at fairs. When the railroads came, they literally swarmed the stations and trains. They used their women to assist them. And they can make stolen goods disappear by "passes" pretty much like those of magicians.[2]

"One of the most daring and widespread classes of criminals to be found in India is a tribe known as the Khaikarees. At one time they practically overran the whole vast continent, having for 'professional' purposes, divided the latter into divisions and subdivisions. No form of punishment, however severe, appeared to act as a deterrent to them." Once a gang of them had their right hands chopped off by the native magistrate, but that did not deter their activities.[3]

A rather degraded class of Mohammedans known as Chupperbunds, numbering two to three thousand souls, were fakir-coiners. The men of this caste wandered far and wide through India, making false rupees and passing them off on village folk by all sorts of trickery.[4]

The Kaikadis or Korchas were another roving low-caste criminal tribe, reported to have 26,000 members in 1901. They were exceedingly criminal. Their women told fortunes and their men did tricks—ostensibly for a smoke-screen occupation. Actually, robbery was their main profession. The members of this tribe were votaries of the goddess Bhawani. They feasted and drank before setting out on criminal ventures. They resorted to violence. A band of them in disguise—say, twenty of them—would attack a house, make a terrific noise, get the house in confusion, and go about their pillage. This sort of violent attack by a disguised band of robbers is known in India as dacoity.[5]

Still another low-caste tribe called the Mang-Garoodis were reported to wander in gangs, to beg, and to perform conjuring tricks. Their

[1] ADAM, H. L., *The Indian Criminal*, pp. 11–12, John Milne, London, 1909.

[2] *Ibid.*, pp. 189–197; also, see SIR EDWARD CHARLES COX, *Police and Crime in India*, pp. 234–237, S. Paul and Co., London, 1911.

[3] ADAM, *op. cit.*, p. 217.

[4] COX, *op. cit.*, pp. 237–240.

[5] *Ibid.*, pp. 243–244.

ostensible occupation was buffalo trading, but cattle thieving was their real occupation.[1]

There is a remarkable similarity of many criminal tribes in India to the gypsies in Europe and America. The latter wander in bands (now in automobiles), have a loose sort of tribal organization, and practice parasitic, semicriminal, and criminal activities. Gypsies have always lived off the dominant people on the fringes of whose life they have taken up their abode. If gypsies as a people did not originate in India, as some authorities claim, it may be that the patterns of their group life have been borrowed from nomadic, criminal tribes of India.

Mafia in Sicily

Prior to Fascist Italy and the advent of totalitarian government with strong reaching power over the individual, the people of Sicily were used to a minimum of governmental authority. Appeal to law in offenses involving personal honor was unmanly and it was fairly customary for the relatives and friends of a victim to avenge offenses against life and honor. In a situation where persons took justice into their own hands, there was widespread refusal to report offenses to government authorities. Under such conditions Mafia grew and prospered.

Mafia was never a vast association of malefactors with a hierarchy of leaders and ramifications throughout Sicily. In this respect it differed sharply from the highly unified Neapolitan Camorra, with which it had no relationship except that of similiar criminal objectives. Mafia consisted rather of many small autonomous associations, each active over a limited district. Each association was a *cosca*, generally having a membership of twelve to fifteen, although some were larger. There was no election of chiefs, authority being wielded by members long addicted to crime, who directed the movements of younger associates, superintended dealings with victims and divided booty. Insubordination and especially misappropriation of booty were considered violations of mafiist honor and punished, sometimes with death. The great majority of mafiist murders grew out of rivalry between *cosche* or members of one *cosca*.

The *cosche* engaged chiefly in cattle rustling, extortion and occasional kidnapping for ransom. Often an ally of the *cosca* would offer to recover stolen cattle for the owner [for a fee of a third to a half of the value]. In regions where agriculture was intensive, a tribute system prevailed. Every landowner or tenant paid to the *cosca* an animal tax higher than the combined imposts of the state, province and commune. Refusal to pay was punished by destruction of trees and vines and the slaughter of livestock.

Although the mafiist chiefs were fairly well known, the police could offer no evidence but popular report. Few persons dared appear against the criminals. Even when a chief could be identified he could prove an alibi, and the youths who actually had perpetrated offenses were unknown. When the latter were arrested

[1] *Ibid.*, pp. 240–242.

they rarely informed on those who had ordered them to commit an offense, for they would then not only be condemmed but would also forfeit mafiist honor and the help customarily given by the *cosca* to captives of the police.

But the chief obstacle to legal action was the political influence of the mafiists, who in some communes dominated political elections.[1]

The terroristic extortion practices of Mafia were transplanted to the United States as a result of Sicilian immigration and became familiar to Americans under the name of Black Hand. Black Hand organizations still persist in the Sicilian population of America.[2]

The Camorra

Out of the sociopolitical chaos of Naples of the nineteenth century grew a remarkable criminal organization, the Camorra, which seemed to foreshadow in many respects the pattern of organized crime under gangster rule in American cities of the present generation. It had some of the characteristics of a secret society with a ritual and signs. It was finally dissolved by the growth of Fascism in Italy. Although some claim that the Camorra was the most powerful criminal organization ever developed, it is difficult to see that it was relatively more powerful than the organization Capone developed in Chicago.

The Camorra was first heard of as a movement for organized protection among released political offenders who in 1830 established themselves in Naples. The more criminal elements associated with the organization formed gangs which preyed upon the unprotected in the ill-governed city or, for a consideration, offered immunity. This society's smuggling activities brought it into contact with the predatory authorities, both civil and ecclesiastic. High personages paid for crimes committed for their benefit or for immunity and the police often employed the society to expose non-Camorrist crimes. The Camorra "taxed" officials holding lucrative positions and secured large revenues from brothels, gaming establishments and illegal lottery bureaus. It probably reached the acme of efficient organization between 1830 and 1848. There was evolved a curious ritual of initiation with tests of courage and loyalty, oaths sworn on pistol, dagger and poison and penalties for infringement, ranging from maiming to death; there were signs for secret communication and a special vocabulary. The members served novitiates before they were assigned or permitted to undertake major crimes. There was a "lower" or *bassa* Camorra and a "higher" or *alta*. The

[1] Reprinted from article on "Mafia" by Gaetano Mosca, *Encyclopaedia of the Social Sciences*, Vol. 10, p. 37, New York, 1933. By permission of The Macmillan Company, publishers.

[2] See *Illinois Crime Survey*, pp. 936–953, Chicago, 1929; Robert E. Park and Herbert A. Miller, *Old World Traits Transplanted*, pp. 241–257, New York, 1921; Arthur Train, *Courts, Criminals and the Camorra*, pp. 223–233, New York, 1912.

latter was the governing body and maintained secret affiliations with the authorities and influential persons.[1]

Cartouche's Organization

In the history of organized crime the notorious organizations which Louis Dominique Cartouche (1693–1721) and Jonathan Wild (1683–1725) developed must be taken into account. Both organizations held sway in the early eighteenth century, Cartouche's in Paris and Wild's in London.

Cartouche, evidently a bright but unruly boy, had early launched into a career of professional crime. This career was temporarily sidetracked by his being recruited into the war in Flanders. After the treaty of Utrecht (1719) he is reported as bringing back a demobilized troop of soldiers to Paris for criminal operations, mainly in the field of stealing and robbing. His career as head of this band was meteoric, lasting only two years, but during his ascendancy his organization had Paris at its feet. It is reported that the French government spent 60,000 francs a month for two years in trying to apprehend Cartouche. He was killed upon the rack in November, 1721, about six weeks after his capture. He became the theme of stories, dramas, ballads, and etchings, so romantic a figure did he cut. Six days after his apprehension, a comedy in five acts based on the Cartouche theme was presented at the Palais Royal, which hurried to anticipate the superior presentation given by the comedian, Legrand, at the Comédie Française the following night. It is reported that Cartouche made an unsuccessful attempt at escape from prison to see this latter production.

While there have been many embellishments on the life and activities of Cartouche, most of the accounts appear to agree on fundamentals. One account, which appears to follow Maurice's *Cartouche, histoire authentique* (Paris, 1859), has the following to say about his criminal organization:

> There were different degrees of initiation into his troop, a pass-word changed daily, and places of meeting and safety provided in all parts of the city and suburbs. The troop numbered at least two thousand members.
>
> The initiated were sworn to sacrifice their lives, if necessary, to prevent their chief from being arrested, or to rescue him if taken. The booty was divided according to rank or to the dangers that each one had run. But more extraordinary than all, Cartouche was recognized as the master, the king of all the robbers in Paris, and levied a tribute even upon those who did not belong to his band. He even pushed his precautionary measures so far as to acquaint his

[1] Reprinted from article on the "Camorra" by Walter Littlefield in the *Encyclopaedia of the Social Sciences*, Vol. 3, pp. 161–162, New York, 1930. By permission of The Macmillan Company, publishers. See Arthur Train, *Courts, Criminals and the Camorra*, Chap. VII, "The Camorra in Italy," New York, 1912.

men with four surgeons attached to the troop in whose shops they could go to have a wound dressed after an affair with the police, and even find a bed if it were needed.

Tavern keepers, spies, informers, receivers, and peddlers were counted as non-combatants. The business of these latter was to sell about the country things that had been stolen in Paris. A locksmith, a gun-smith, and a melter-down of gold and silver were also attached to the troop.

While one division of the troop scaled the windows, another devoted itself to attacking belated pedestrians, whom they first stunned with a blow from a loaded cane, or a flail, on the back of the neck. Very rarely did their victims have time to call for help; when such a thing by accident happened, the robbers were not particularly alarmed. They knew by experience that the watchmen had sufficient regard for their own precious necks to walk off in a direction opposite to that in which their assistance was required.[1]

Apparently, Cartouche's criminal organization did not rely upon intimidation and political protection and corruption, in order to maintain itself, as did the Camorra and American gangsters. It relied on undercover anonymity of Parisian life, dexterity, secrecy, operational effectiveness of different cogs in the criminal machine, the helplessness of victims, and the lack of adequate police coverage.

The Criminal Fence, Jonathan Wild

The organization perfected by Jonathan Wild was essentially different from that developed by Cartouche. Cartouche's band robbed, stole, waylaid, and disposed of the ill-gotten gains under the cloak of secrecy. Wild's organization was that of a middleman. It was accessible to both criminals and victims. He dealt with thieves and robbers and was supposed to direct many of their jobs. But he preyed on the criminals as well as on the victims. In other words, he operated a fence in league with criminals for returning stolen property to owners.

Like Cartouche, Jonathan Wild became the talk of eighteenth century London, a notorious character in history, and the subject of literature. Daniel Defoe produced two accounts of his life. Henry Fielding subjected his career to novel form. Here, again, the accounts of Wild's activities and life are embellished by the eighteenth century writers, who were saturating the reading public at that time with accounts of notorious villains, pretty much as the American detective story magazines are capitalizing on a seemingly insatiable public appetite for gangster stories. In his early life Wild was probably a scamp or rogue rather than a petty

[1] *The Knickerbocker*, Vol. 55, no. 3, pp. 247–248, March, 1860; also see an account attributed to Daniel Defoe, entitled *The Life and Activities of Louis Dominique Cartouche who was broke alive upon the wheel at Paris November* 28, 1721, translated from the French, 2d ed., London, 1722 (in the rare book collection of the University of Texas Libraries); also see Michaud's *Biographie universelle ancienne et moderne.*

crook. He drifted to London and into contact with the underworld, apparently without becoming an out-and-out crook. In his later years, he went into the lucrative business of operating a criminal fence which serviced both crooks and victims.

It appears that in the reign of King William (prior to that of Queen Anne) an act had been passed making it a felony to buy or receive stolen goods and the fences for disposing of stolen goods were spoiled. Those who persisted in operating fences could give the thieves so little for their efforts that the thieving profession received a definite setback. But Wild found an extralegal way of surmounting the difficulty. According to one of the Defoe accounts his method was as follows. From the thieves who deposited their stolen goods with him, he learned from whom the articles had been taken. The goods were deposited in such places and in such manner that he personally avoided the jeopardy of receiving stolen goods himself. He would contact the victim and indicate that, if they would describe the articles, he might find them. "For there was a parcel of stolen goods stopped by an honest broker, and if their goods were among them, they might have them again for a small matter of expense."

He tried to build himself up into a "mighty honest man," performing a public service. And it is said that he was obliged to give up once in a while "one or two of his clients to the gallows, to support his rising reputation; in which cases he never failed to proclaim his own credit in bringing offenders to justice, and in delivering his country from such dangerous people." Actually, he is reported as informing on thieves when they would not let him dispose of their goods or would not accept his terms.

In the heyday of his organization, victims of theft and robbery came directly to his office. They left their names and a description of the lost articles. On a second visit, they learned how hard it was to get the thief to give up the articles. At the third visit, the victims were told how much it would cost to have the goods delivered to them by a porter. Wild received the fees and gave the thieves their share.

An act was passed, aimed at Wild's practices, making it a felony to take a reward, directly or indirectly, for returning stolen goods. But he paid no heed and was finally caught for accepting a reward. It is reported that Wild operated his fence for about thirteen years. He was hanged on May 24, 1725.[1] It is claimed that Wild "attained an almost monopo-

[1] DEFOE, DANIEL, *The Life and Actions of Jonathan Wild*, reprinted as an appendix in *The History of the Life of the Late Mr. Jonathan Wild the Great* by Henry Fielding, Alfred A. Knopf, New York, 1926. This is Defoe's first account and varies in embellishments from his second account; also, see JEROME HALL, *Theft, Law and Society*, pp. 132–136, Boston, 1935.

listic control of the profits of theft over a wide area including and surrounding London."[1]

While Wild became a czar of the thieving underworld, his fence operations really partook of the nature of a criminal racket in the modern American sense. He was in a position to exercise leverage on the criminals and on the victimized citizens. He could reduce the thieves to his terms by turning the unruly ones over to justice, and he provided the only practical recourse for citizens to recover their property. He remained untouched by law until the law was redefined to cover his particular operations. Racketeers in present-day American cities not only make themselves indispensable but also place themselves in the strategic position of being able to exert pressure and dictate terms.

Racketeering in American Cities

The claim is made that criminal rackets are of recent American origin. Hostetter insists that the word "racket" originated in Chicago about 1924 and that "more than one hundred separate rackets can claim Chicago as their birthplace."[2] He also contends that racketeering evolved out of corrupt labor union leadership—"an evolution of the old 'walking delegate' and his graft system."[3] The antecedents of American rackets may possibly be traced back to the various forms of extortion, conspiracy, threats, blackmail, corruption, and graft, all of which practices are consummated in racketeering as it exists today.

If, in the future, history will not substantiate the unique origin of rackets in Chicago, certainly it will substantiate the fact that so far they have had unprecedented bloom in large American cities. The sudden growth of American cities, the weakness of law-enforcement machinery, the lack of political integrity, the existence of graft, the disregard for law, the severity of business competition, the existence of antitrust and price-fixing laws and laws in restraint of trade are some of the elements that prepared the soil for American rackets. The seeds may have come from cross-fertilization of older coercive and corrupt practices.

The United States Senate investigation of rackets provisionally defined the racket as an organized conspiracy to commit extortion or coercion in order to obtain money or property from others.[4] Hostetter defined a racket as "any scheme by which human parasites graft them-

[1] Fielding, Henry, *The History of the Life of the Late Mr. Jonathan Wild the Great*, p. x, New York, 1926, from foreword by Wilson Follett.

[2] Hostetter, Gordon L., and Thomas Quinn Beesley, *It's a Racket*, pp. 10, 129, Chicago, 1929.

[3] *Ibid.*, p. 15.

[4] *Investigation of So-called "Rackets,"* Hearings before a subcommittee of the Committee on Commerce of the United States Senate, Vol. 1, Part 1, p. 8, Washington, D. C., 1933.

selves upon and live by the industry of others, maintaining their hold by intimidation, force, and terrorism."[1] "Rackets are nothing more or less than criminal conspiracies of exploitation in which the conspiring factors are business men, certain types of labor union leaders, underworld forces, and politicians."[2] Landesco in his study of racketeering for the *Illinois Crime Survey* says that "racketeering is the exploitation for personal profit, by means of violence, of a business association or employees' organization."[3]

Rackets have developed in the field of business and labor organization that lent themselves to the domination of unscrupulous organizers who could dictate the terms of working or doing business through coercion and force. Racketeers achieved an illegal monopoly in the fields of "cutthroat" competition, in spite of and because of American antitrust laws. The National Recovery Act of the Roosevelt "New Deal" administration attempted to legalize what racketeers had been doing illegally through collusive agreements and terrorism, *i.e.*, legalize trade agreements, price fixing, and the conditions of wages and hours.

Some of the fields of business enterprises that have been subject to racketeering are junk dealing, cleaning and dyeing, laundries, fish and poultry dealers, bakers, garage owners, milk dealers, ash and rubbish removal, candy jobbing, cigarette jobbing, florists, and restaurants—to mention only a few. The employers, merchants, and workers who do not pay the necessary tribute to the racketeers' organization and do not abide by the terms demanded are bombed, threatened, assaulted, murdered, closed down, or forced to the wall by racketeers themselves, by hired professional gangsters, or other coercing agencies. Sometimes the racketeer is the boss of a monopolistic labor union, which enables him to use leverage on the employers and public serviced by this union. At other times he is master of an employers' association, which dictates the terms of doing business. Sometimes he establishes a controlling board within an older organization so as to dictate to laborers, employers, or shopkeepers, and exact tribute. Pasley goes so far as to estimate that racketeering had by 1931 acquired control of 75 per cent of the country's economic processes and exacted an annual toll, passed on ultimately to the consumer, in excess of German war reparations.[4] Although such estimates are of dubious value, they at least indicate an appreciation of the terrific "strangle hold" racketeering has on laborers, employers, and consumers in America.

[1] HOSTETTER and BEESLEY, *op. cit.*, p. 4.

[2] *Ibid.*, pp. 5–6.

[3] The Illinois Association for Criminal Justice, *The Illinois Crime Survey*, p. 979, Chicago, 1929.

[4] PASLEY, FRED D., *Muscling In*, p. 16, New York, 1931.

There has been difficulty in apprehending racketeers and their agents, and in obtaining adequate legal evidence against them. And there has been great difficulty, because of fear and threats, in getting witnesses to testify against them.[1] Under the system of American law enforcement and prosecution, the racketeers have practically been immune. The astute recommendations for curbing rackets in America proposed by Police Commissioner Grover Whalen of New York City to the United States Senate committee show clearly how rackets are embedded in the existing politicoeconomic order of America. His proposals were:

1. To establish a special unit for investigation of rackets, under the Division of Investigation (now the Federal Bureau of Investigation) of the United States Department of Justice.
2. To amend the present antitrust laws.
3. To have the state department of labor investigate a union, applying for a charter, before granting it.
4. To establish a Federal penal code, by constitutional amendment, giving the Federal government concurrent jurisdiction with the separate states over crimes relating to racketeering, such as homicide, felonious assault, coercion, conspiracy, sabotage, and possession of deadly weapons.
5. To forward duplicate copies of all complaints on racketeering to the Division of Investigation.
6. To seek cooperation of business and industry in bringing about fair competition (since racketeering thrives on cutthroat competition).[2]

Other Forms of Organized Crime in American Cities

Before the advent of racketeering and organized bootlegging in American cities, organized crime was mainly confined to burglary, pickpocketing, bank and pay-roll holdups, criminal fences, and to the illicit business of prostitution and gambling. The greatest opportunities to make crime a paying business lay in the fields of commercialized vice and gambling. Later when America experimented with prohibition, the illegal distribution, manufacture, and sale of beer and whisky far outshadowed the opportunities in the older forms of organized crime. The "bootlegging" business became the most highly integrated form of organized crime known so far to American cities.

The emporiums of commercialized vice and gambling in American cities, prior to the growth of highly organized crime, always had some sort of loose underworld affiliation in the days when police were not pressed to enforce the law against them. A small chain of such emporiums might be owned by prosperous but not particularly sinister vice lords. And at the same time the vice lords of the underworlds of the

[1] *Investigation of So-called "Rackets," op. cit.*, p. 17.
[2] *Ibid.*, pp. 21–24.

past generation usually cut an important figure in local neighborhood political machines of American cities and could command protection and immunity from the police. Finally, commercialized vice and gambling became syndicated and dominated by criminal gangs, who fought other gangs for the sole right to do business in a territory and who protected the members of the syndicate from other gangs and from the law.

By the third decade (the twenties) of the twentieth century, organized crime in American cities was a highly competitive business, composed of warring gangs which struggled for territory and supremacy and which were beyond the control of police and existing law-enforcement machinery. In the process bootlegging, racketeering, commercialized vice, and gambling were combined. The violent gang warfares in Chicago are indicative of how this process of forced integration in organized crime was achieved. Al Capone finally emerged as the supreme and uncontested overlord of the lucrative fields of organized crime for the whole Chicago territory.

Some of the salient facts on the development of organized crime in Chicago have been described as follows:

> There exists in Chicago, today (1929), *an underworld system of control* which enforces its decrees by bombs and murder. Its history discloses its various interlocking manifestations in commercialized vice, gambling, bootlegging, and gang crimes.
>
> This extralegal government has no formal organization, but is best described as a *feudal system* held together by powerful leaders, by intense personal loyalties, by the gangsters' code of morals, by alliances and agreements with rival gangster chiefs, and by their common warfare against the forces of organized society.
>
> The politician affords protection or immunity from prosecution, the gangster rallies his friends for legal as well as fraudulent voting.
>
> The leading *criminal profiteers* in bootlegging, gambling, vice, and labor and merchant "racketeering" *run little risk of prosecution* and conviction in conducting these illegal operations. Underlings occasionally receive punishment, almost without exception, of a minor kind.
>
> The strongest criminal gangs are losing their neighborhood character and are increasingly becoming mercenaries' retainers, held together by need of protection and expectation of profits. The inference can readily be drawn that while neighborhood criminal gangs can rely only on the influence of the local politician, mercenary criminal gangs have understandings with the highest sources of protection in the county, the city, and certain of the near-by towns and villages.[1]

The extent to which organized crime as marshaled by gunmen and gangsters transcended the individual metropolitan community in America is not known exactly. There have been suspicions that some sort of intercity integration of gangster rule was attempted. And there were

[1] Adapted from summary on organized crime in Chicago, made by E. W. Burgess in the *Illinois Crime Survey*, pp. 1092, 1094–1095.

rumors as well as newspaper reports of the importation of gangsters from other cities to perform a certain task or assist in gang warfare. How much of this exchange and affiliation of gangster groups of various cities went on is merely conjecture. Capone's mastery of metropolitan Chicago probably represented the highest point of integration in organized crime accomplished by gangster rule. At the time the Federal government lifted Capone from the Chicago scene for evasion of income taxes, the intercity integration of organized crime as perfected by gangster rule was not clearly visible.[1]

White-slave Traffic

The white-slave traffic and traffic in opium and harmful drugs have been the principal avenues of development for international organized crime. As a result of reform agitation and lurid reports, there is a current impression that these two international traffics are very highly organized. It would be safe to say that the international traffic in women and drugs is much less organized than the public believes,[2] and is very rudimentary as compared with the degree of development of organized crime in American cities under gangster rule.

When white-slave traffic was competently investigated in America in the years before the World War, very little evidence of highly organized bands was obtained. For example, the Vice Commission of Chicago could make merely the following statement on white-slave traffic.

> This investigation has shown that panders often work in groups and are in communication with gangs in other cities. Individuals, working independently are also willing and eager to procure prostitutes for houses not only in this city, but for houses in other cities and countries.

[1] Excellent material on the nature of organized crime in America, and particularly its relation to corrupt politics, may be found in the following works: John J. O'Connor, *Broadway Racketeers*, New York, 1928; Philip S. Van Cise, *Fighting the Underworld*, Boston, 1936; John Landesco, "The Criminal Underworld of Chicago in the Eighties and Nineties," *Journal of Criminal Law and Criminology*, Vol. 25, pp. 341–357, 928–940, 1934; Courtney R. Cooper, *Ten Thousand Public Enemies*, Boston, 1935; Samuel Seabury, *Final Report in the Matter of the Investigation of the Magistrates' Courts*, New York, 1932; W. B. Northrup and J. B. Northrup, *Insolence in Office: The Story of the Seabury Investigation*, New York, 1932; Charles E. Merriam, *Chicago*, New York, 1929. Newspaper and magazine material covering prosecution of organized crime and affiliated politicians by District Attorney Dewey in New York City should be consulted.

[2] A recent League of Nations study of the reported background facts of prostitutes in several countries reveals that the activity of *souteneurs*, or procurers, is not often the reason for entrance into prostitution. The implication is that, when this occurs, the connection between victim and procurer is a personal one rather than a part of an organized recruiting system. See League of Nations, Advisory Committee on Social Questions, *Enquiry into Measures of Rehabilitation of Prostitutes*, Part I, *Prostitutes: Their Early Lives*, pp. 50–51, Geneva, 1938.

These individuals and members of these gangs are very often waiters in saloons, bartenders and proprietors of saloons and houses of prostitution. They are scattered all over the city, and the individuals are known to each other, and confer together when their services are demanded.

It has been demonstrated that men and women engaged in the so-called "white-slave" traffic are not organized. Their operations, however, are so similar and they use the same methods to such an extent, that it is safe to infer that they are in some way working together.[1]

J. Edgar Hoover, head of the United States Federal Bureau of Investigation, reviewing 36,500 cases of white slavery on file for a ten-year period, states that there is considerable misapprehension as to the extent of procuring rings of white slavers. "The average case," he says, "concerns usually one man and one woman or two men and two women."[2] Gangs of panders and clearinghouses or employment agencies for prostitutes have been uncovered very infrequently.

Although the ramifications of white-slave traffic might be unusually difficult to uncover by investigation, it seems safe to contend that at best it has been very loosely organized and that more frequently than not it represents merely arrangements of individual panders, brothel keepers, and pimps.

If there is any place in the world that has given open reign to commercialized vice, it is the Orient. For prostitution in the East has been a recognized institution. Even here a special League of Nations Commission, investigating the problem all the way from the Mediterranean to Japan, found no startling evidence of a highly organized traffic in women. Some of the main findings of this commission are given as follows:

With only certain exceptions, to be found chiefly in the Mediterranean Near East, where conditions of prostitution more nearly approach those of Europe, traffic in the East is characterized by the fact that prostitutes going to foreign countries do so exclusively in search of clients among their own countryman abroad. Nowhere in the East has the commission found attempts to provide exotic novelty to brothel clients by offering them women of alien races brought for the purpose from abroad.

About one-half of the prostitutes from the Continent of Europe come in the company of *souteneurs*, but even some of those who come alone are to such an extent under the influence of *souteneurs*, who may be a few thousand miles away, that they are known to make regular remittances from their earnings to these men, long after money for advances made against the expenses of the journey and equipment have been reimbursed.

[1] The Vice Commission of Chicago, *The Social Evil in Chicago*, pp. 176–177, Chicago, 1911.

[2] HOOVER, JOHN EDGAR, "Organized Protection against Organized Predatory Crimes: V. White Slave Traffic," *Journal of Criminal Law and Criminology*, Vol. 24, pp. 480–481, 1933–1934.

Persons engaged in traffic in women and children of Chinese race are, as a rule, middle-aged women. A person of this kind is able to acquire the guardianship of a girl (according to Chinese family customs) with the intention of placing her in domestic service or of exploiting her as a singing-girl or prostitute.

Brothel owners in places outside China who require fresh girls go themselves, send representatives or employ intermediaries to "buy" such girls in China and arrange for their transport to the place where the brothel is.

The keeper of a Japanese brothel in China must needs get into touch with persons in other places of China or in places within the Japanese Empire in order to keep his establishment supplied with inmates. The recruitment of Japanese prostitutes for places in China is also effected through employment agencies. According to Japanese laws and regulations, special employment agencies for the engaging of prostitutes are permitted, and this refers to engagement of prostitutes for brothels abroad as well as for brothels within the Japanese Empire.

With few exceptions, the Oriental traffickers have so complete a control over their victims that the latter regard them sometimes in the best of faith as guardians invested with parental authority over them.

Taking all considerations into account the Commission holds that the principal factor in promotion of internation traffic in women in the East is the brothel and, in the chain of brothels which are at the disposal of the trafficker, particularly the brothel in the place of destination of the victim.[1]

Drug Traffic

International traffic in opium and dangerous drugs may be considered to be more highly organized than white slavery. And it may attract shrewder and more daring traffickers. The routing of a shipment of contraband drugs from point of origin to final destination usually passes through several hands and is likely to traverse great distances back and forth throughout the world. However, the traffic is not highly integrated and the agents of distribution are very loosely confederated and, at best, work in small groups, which undoubtedly have considerable mortality and turnover. A sample case, reported to the League of Nations' Advisory Committee on Traffic in Opium and Other Dangerous Drugs, is given below and some indication of the methods used by drug traffickers and the degree of their organization can be gleaned therefrom.

There were six cases on the S.S. *Rondo*, numbered from 101 to 106. Cases numbered 102 and 103 contained the morphine. There were also six cases on the *Radja* numbered from 51 to 56, Nos. 51 and 52 containing cocaine and morphine. They were consigned as vests and cotton shirts. The firm of Kubo & Co. of Batavia received the bill of lading of the consignment on the *Rondo*, with the request that the six cases should be sent direct to Amoy. Tao Cho So, who had sent the bill of lading to the firm of Kubo, was arrested, and

[1] *Commission of Enquiry into Traffic in Women and Children in the East*, League of Nations, Report to the council, official no.: C. 849. M. 393, 1932 IV, pp. 22, 26, 59, 60, 75, 93, and 96, Geneva, 1933.

stated that, when he was in Amoy in December, 1927, Soh Thian Lam, head of the firm of Heng Kee, Amoy, and Soh Tjii Sioe, head of the firm of Seng An, also of Amoy, had asked him to arrange for the transhipment of two consignments of goods which were arriving from Europe. Tao Cho So was a member of the firm of Lian Bo, Batavia, and two letters addressed to that firm were intercepted by the police. The first contained the bill of lading of second consignment and a notice of shipment, and the second the invoice for six cases marked L.T. $^{5}/_{56}$ and containing 48 dozen vests. This invoice was dated Berlin, May 16th, 1928, and was signed by John Meyers pp. Arthur Willner. The labels on the cases of the first consignments mentioned the address of Follett and André at Havre and those of the second consignment the address of this firm in Paris. Enquiries elicited the fact that both consignments had been despatched from Havre to Amsterdam by Follet and André, and Dubois was mentioned as the consignor. After the first seizure on May 29th, the Nederland Shipping Co. gave orders to its agents at Havre not to accept any more consignments from Messrs Follet and André without examination of contents. A fresh order having just been received from that firm, the agents informed it of the instructions received from the shipping company whereupon Messrs Follet and André withdrew the order. The German authorities made enquiries as to Willner and Meyers, but as there was no clue beyond the fact that their names were mentioned on the invoice, the enquiries proved unsuccessful. The consignment was sent from Mulhouse in the names of Dubois and Andresen; both the firm of Roessler and that of Follet and André stated that these two persons were unknown to them, and it is possible that both names are fictitious. The drugs were conveyed through France *sous acquit* in conformity with the existing regulations. Further enquiries showed that Messrs Roessler had received an order on January 19th, 1928, from the firm of Franche & Sobrino of Havana for 52 kgs of morphine. These narcotics were to be packed in two cases marked F.S. 102 and F.S. 103, to be sent to Follet and André, Paris, for forwarding. A second order was received from the same firm at Havana on March 10th, 1928, for 30 kgs cocaine and 25 kgs morphine to be packed in two cases marked L. T. 51 and L. T. 52. A third consignment had been sent back to Messrs Kaempf & Co., Paris. Messrs Roessler could give no information with regard to the cases containing the shirts or with regard to the third consignment. Messrs Follet and André, on being asked why they had changed the destination of the cases containing the narcotics from "Havana" to "Batavia," stated that they had acted on the instructions of Dubois, Andresen's employee. Enquiries made by the Cuban authorities showed that there was no such firm at Havana of the name of Franche & Sobrino; a later interrogation of the manager of the Roessler factory elicited the fact that the two orders from this firm had been forwarded to Roessler by Kaempf of Paris, who had also arranged for their payment. Tao Cho So was sentenced to two years' imprisonment and a fine of 1,000 florins, with confiscation of the drugs seized. He appealed against this judgment, but it was confirmed by the Supreme Court of Justice of the Netherlands-Indies in August 1929. The prisoner, who had been released on bail of 10,000 florins, has disappeared.[1]

[1] League of Nations, Advisory Committee on Traffic in Opium and Other Dangerous Drugs, *List of Illicit Transactions and Seizures Reported to the League of Nations since November 6th*, 1929, p. 23, Geneva, 1930.

CHAPTER VIII

THE DEVELOPMENT OF CRIMINAL CAREERS

In a complex society, which is unable to stifle breaches of rules, recidivism should be expected as a more or less normal social phenomenon. The recidivist may be a second-time, third-time, fourth-time offender and so on upward. In fuller bloom, he is known as a habitual offender; in still fuller bloom, he is known as a professional criminal. The lines of demarcation are not sharply drawn between habitual and professional criminals. The professional makes crime his business career, while the habitual offender has certainly had a career in crime, if not making crime his principal career. As offenders move upward in the scale of recidivism, they are clearly developing criminal careers and are entering the class of habitual and professional criminals. The older criminologists, who presumed to classify types of offenders, usually contrasted habitual criminals with occasional offenders, criminals of passion, and born types of criminals. They generally recognized the fact that habitual criminals were socially processed offenders, whose careers were shaped by their experiences and associations. Thus Ferri gave the following description of criminals by contracted habit:

> These are they who, not presenting the anthropological characteristics of the born criminals, or presenting them but slightly, commit their first crime most commonly in youth or even in childhood—almost invariably a crime against property, and far more through moral weakness, induced by circumstances and a corrupting environment, than through inborn and active tendencies. After this either they are led on by the impunity of their first offences, or, more decisively, prison associations debilitate and corrupt them, morally and physically, the cell degrades them, alcoholism renders them stupid and subject to impulse, and they continually fall back into crime, and become chronically prone to it. And society, which thus abandons them, before and after they leave their prison, to wretchedness, idleness, and temptations, gives them no assistance in their struggle to gain an honest livelihood, even when it does not thrust them back into crime by harassing police regulations, which prevent them from finding or keeping honest employment.[1]

The Professional Criminal

The recidivist, habitual offender, and professional criminal apparently represent gradations on a scale of criminal sophistication, with the habitual criminal occupying the middle position between the untutored second-time offender and the tutored professional. The professional

[1] Ferri, Enrico, *Criminal Sociology*, p. 30, New York, 1896. By permission of D. Appleton-Century Company, Inc., publishers.

criminal is the most highly processed offender, the one whose career has represented a thorough schooling in criminal techniques, arts, attitudes, and philosophy of life. He is the most highly glazed or polished offender. To say merely that he makes a business of crime is to mention only the superficial phase of his career. Von Hentig contended that the definition of the professional criminal should come from the conceptions of criminals themselves. According to ratings of a small sample of young inmates, the professional criminals were conceived to rank the highest in performance of crime, very close to the highest performance of athletes in the sporting world.[1] While this suggests that professionals stand at the top of the criminal world, it also suggests that professional criminals have high status because of their technical ability and sophistication.

Using the knowledge about professional crime which one professional thief put in writing, with supplementation from the best known autobiographies of criminals and descriptive studies on the professional aspects of crime, Sutherland formulated the following characteristics of the profession of theft: skill, status, consensus, differential association, and organization.[2] The profession of theft, according to Sutherland, consists of a complex of skills and techniques, developed and acquired in association with professional thieves. Professional thieves have acknowledged standing (status) in the field of crime, which is based on their wide knowledge, high skill, important connections, influence, dress, and manners. They who constitute the profession possess a body of commonly shared (consensus) feelings, sentiments, and behavior patterns, including a code of honor, consciousness of kind, and *esprit de corps*. A certain necessary aloofness from ordinary people is maintained (differential association), and "personal association is limited by barriers which are maintained principally by the thieves themselves." What is more, a person who is received and accepted into the society of professional thieves and is recognized by them as a professional thief is a professional thief. On the other hand, professional thieves are not completely isolated from the rest of society. They have special friends in respectable society and have instrumental contacts with predatory forces in political life (police, politicians, courts, etc.). They respond to the "public" culture pretty much as other interested persons, *i.e.*, to newspapers, radio, cinema, sports, and so forth. Finally, the profession has an informal organization, which consists of reciprocity and mutual assistance, especially in passing on helpful information, help in time of danger, collections to aid members in the throes of the law.

[1] VON HENTIG, HANS, "Beitrag zur Frage des Berufsverbrechers," *Monatsschrift für Kriminalpsychologie und Strafrechtsreform*, Vol. 22, pp. 371–375, 1931.

[2] CONWELL, CHIC, *The Professional Thief*, annotated and interpreted by Edwin H. Sutherland, pp. 197–211, Chicago, 1937.

While there are specific differences that mark off the profession of theft from other professions, it is clear that it contains certain characteristics that are common to other professions, particularly the complex of skills, status, consensus, and mutual assistance. Sutherland contends that "selection and tutelage are the necessary elements in the process of acquiring recognition as a professional thief." He must have had the schooling and he must be taken up by professional thieves in order to get the tutelage. Contacts with members of the profession are necessary as the means of being taken up by professional thieves.[1] The ones who are taken under wing enter upon an informal probationary period of "learning the ropes" and acquiring the skills, and are gradually through informal attachments inducted into the status and society of professional thieves.

Undoubtedly, most of the characteristics of professional thieves apply to other groups of professional criminals. Whether they have achieved the level of development that the profession of theft has achieved remains for further studies to decide. And to what extent other professionals in crime differ from professional thieves is not definitely known at present. But there is very little doubt that other professionals in crime represent highly processed criminals and tutored careers in terms of skills and attitudes as do professional thieves.

Genesis of Criminal Careers

A career of habitual or professional crime is not made overnight and does not come about in a short span of time. It develops in the life history of the offender. Criminologists who have paid attention to case histories and autobiographies of confirmed adult offenders have been impressed with the fact that a criminal career has grown over a considerable period of time and in most instances reaches back into the early life of the offender for its beginnings. An intensive study of 145 male offenders under 30 admitted to penal institutions of New York State during August and September, 1926, revealed that "the majority of these men began their delinquent careers as children. They presented behavior problems in school and later became truants."[2] The case studies of young adult offenders, published by Shaw, clearly show this point.[3]

[1] *Ibid.*, pp. 211–213.

[2] The Crime Commission of New York State, *Individual Studies of 145 Offenders* by the Sub-Commission on Causes and Effects of Crime, prepared by Frederick A. Moran, p. 7, Albany, N. Y., 1928.

[3] Shaw, Clifford R., *The Jack-Roller*, Chicago, 1930; Shaw, Clifford R., and M. E. Moore, *The Natural History of a Delinquent Career*, University of Chicago Press, Chicago, 1931; Shaw, Clifford R., and Henry D. McKay, "Social Factors in Juvenile Delinquency," National Commission on Law Observance and Enforcement, *Report on the Causes of Crime*, no. 13, Vol. 2., Washington, D. C., 1931.

A professional burglar, who wrote the story of his career, indicated that he stole flowers at seven, cherries at twelve; was an uncontrolled boy whose mother died when he was fourteen and whose father had died earlier; stole money from the shop where he was apprenticed; ran off to America as a stowaway; became vagrant; was sentenced for suspected robbery; later followed housebreaking and burglarizing as a career; and was committed for several long sentences to penitentiaries.[1] Other criminal autobiographies likewise indicate a gradual genesis of a criminal career.[2] Probably no autobiography more graphically reveals how a criminal career progressively develops from youth through the social processing of contacts with criminal underworld and prison culture than the one written by Jack Black.[3]

To be sure, not all professional criminal careers go back to childhood but many, perhaps most, of them do. The fact that the beginnings of later criminal careers can be traced back to childhood has been recognized for a long time. Edward Livingston, famous American penologist of the early nineteenth century, observed that a large proportion of convicts in state prisons (this, a century ago) began their careers in crime when they were children.[4] Livingston cites several cases of youths who began a life of crime very early. For example, he cites the case of a boy, eleven years of age, who was awaiting trial for felony in the Arch Street Prison of Philadelphia and who had already served a term of one year in the New Jersey penitentiary for horse stealing.[5] The person who studied the New York State prison over a century ago was likewise impressed with the childhood beginnings of criminal careers and gives several illustrative cases.[6] Mayhew, in his social survey of the people in London (as of the sixth decade of the nineteenth century), presented several narratives of professional criminals, all of which indicate a boyhood beginning of a criminal career.[7] The case histories, cited in one of the earliest English studies of delinquency (*c.*1850), likewise confirm the early age beginnings of later careers in crime.[8]

[1] *In the Clutch of Circumstances; My Own Story*, by a Burglar, New York, 1922.

[2] See, for example, VICTOR F. NELSON, *Prison Days and Nights*, pp. viii–xvi, Boston, 1933.

[3] BLACK, JACK, *You Can't Win*, New York, 1926.

[4] *The Complete Works of Edward Livingston on Criminal Jurisprudence*, National Prison Association, Vol. 1, p. 547n, New York, 1873.

[5] *Ibid.*, Vol. 1, p. 574n.

[6] *Inside Out, or an Interior View of the New York State Prison*, etc., By One Who Knows, pp. 217–243, New York, 1823.

[7] MAYHEW, HENRY, *London Labour and the London Poor: Those That Will Not Work*, pp. 316–324, 345–349, 349–355, London, 1862.

[8] CARPENTER, MARY, *Juvenile Delinquents; Their Condition and Treatment*, pp. 50–80, 91–102, 111–116, London, 1853.

Behavior-patterning Process

The case narratives of the former century and the case histories of the present century indicate pretty clearly that in the genesis of a criminal career there is a definite behavior-patterning process at work. In other words, forces are at work to shape the behavior and activity of the individual in terms of the techniques, skills, ideas, and attitudes of prevailing criminal lore and experience.

The great French criminologist, Gabriel Tarde, was very much impressed with the gradual propagation of criminal behavior patterns from the noble class to the masses and the dissemination of criminal modes from large cities to their hinterlands.[1] Tarde applied the name "imitation" to this process of descent and spread of patterns.

Besides this rather impersonal imitation that moves downward in class and outward from center, there is the more direct form of imitation that involves the transfer of criminal techniques, practices, and attitudes from person to person as a result of contact and association. And in addition to the impersonal or personal forms of imitation, there are still other phases of the behavior-patterning process in shaping criminal careers. There is the individual acquisition of skills in the commission of crime. And there is the fixation of habits and attitudes as a result of criminal experience. These acquisitions and fixations are a part of the psychological processes of learning and conditioning. Viewed from still another sociological angle, the patterning process in criminal behavior involves a gradation in status—a graduation from the lower to the higher brackets of crime. For example, a boy begins as a petty pilferer and emerges as a bank robber or safecracker. There is usually a progressive, one-way passage from the simple, petty, unskilled offenses to the complicated, skilled crimes.

Shaw thinks of this patterning process as a process of summation, which stresses the progressive and cumulative phases of patterning.[2] Sutherland calls it a process of maturation, in which the person shows progressive sophistication in criminal ways.[3]

Illustrative Cases

The following official record, cited by Shaw, in skeleton form, reveals the progressive development of a criminal career from petty delinquencies of early childhood to the more serious offenses of young adulthood:

[1] Tarde, Gabriel, *Penal Philosophy*, translated by R. Howell, pp. 331–342, Boston, 1912.

[2] Shaw, Clifford R., *The Jack-Roller*, p. 347, Chicago, 1930.

[3] Sutherland, E. H., *The Principles of Criminology*, pp. 181–184, Philadelphia, 1934.

Joseph Kratz's Official Record[1]

1. Eight years, eleven months:
   Arrested on a charge of petty stealing in the neighborhood. Involved with Reuben Silver (9 years, 2 months) and an older companion. The three boys were held in the Juvenile Detention Home and later released to their parents.
2. Ten years, five months:
   Arrested on a charge of shoplifting in the Loop. Implicated with an older companion. Brought to the Juvenile Court and Joseph was placed under the supervision of a probation officer. His companion was committed to the St. Charles School for Boys.
3. Eleven years, one month:
   Arrested in the act of shoplifting in a department store in the Loop. Involved with Max Izen (10 years, 8 months). Both boys committed to the Chicago Parental School.
4. Eleven years, seven months:
   Released from the Chicago Parental School.
5. Eleven years, eight months:
   Arrested while shoplifting in the Fair Department Store in the Loop. Was in the company of Israel Rathers (8 years, 6 months) and Sidney Blotzman (7 years, 5 months) at the time of arrest. Turned over to the police and held in the police station until released to parents.
6. Eleven years, nine months:
   Arrested in the act of shoplifting in a department store in the Loop. Was in the company of Sam Leben (10 years, 7 months), Max Izen (11 years, 4 months), and Sidney Blotzman (7 years, 6 months). Held at police station and later released to parents.
7. Twelve years:
   Arrested while shoplifting with Max Izen (11 years, 7 months) and Sidney Blotzman (7 years, 9 months). Boys placed in Detention Home and later released under supervision of probation officer.
8. Twelve years, one month:
   Arrested and brought to the court on a charge of burglary. Implicated with Sam Leben (10 years, 11 months) and Sidney Blotzman (7 years, 10 months). Released on probation.
9. Twelve years, two months:
   Arrested while in the act of shoplifting. Was in the company of Max Izen (11 years, 9 months) and Sidney Blotzman (7 years, 11 months). Placed in Detention Home and later released to parents under the supervision of a probation officer.
10. Sixteen years, two months:
    Arrested with Sam Leben (15 years) on a charge of larceny of automobiles. Committed to St. Charles School for Boys.

[1] SHAW, CLIFFORD R., and MAURICE E. MOORE, *The National History of a Delinquent Career*, pp. 28–29, Chicago, 1931. Reprinted by permission of The University of Chicago Press.

11. Seventeen years, eight months:
    Paroled from St. Charles School for Boys.
12. Eighteen years, four months:
    Arrested on a charge of larceny of merchandise from a department store in the Loop. Brought to the Boy's Court and placed on adult probation.
13. Nineteen years, seven months:
    Arrested on a charge of larceny of merchandise truck. Implicated with two adult companions. Again placed on adult probation.
14. Nineteen years, seven months:
    Arrested on a charge of larceny of automobiles. Was in the company of Max Izen (19 years, 2 months).
15. Twenty-one years:
    Arrested in the company of Sam Leben (19 years, 10 months); charged with stealing automobiles.
16. Twenty-one years, five months:
    Became involved in the bootlegging racket and was killed by a rival gangster.

From the life history, collected by Landesco, of a youthful Chicago criminal known to the police at twenty-one years of age as a gun robber, we are able to trace the graduation from the lower to the higher brackets of crime and the progressive sophistication in criminal techniques and practices.

"By this time we were bumming and stealing. We first started stealing from clothes lines while bumming from school. Pete, Louie, and Babe Ruth were all in Rees school then. Of that racket we had been hearing a lot. The first day we went out west, near Oak Park. We took the street car with a little sack under our arm and filled it and came home. We picked silk shirts and would sell them for only a dollar or two dollars apiece. We sold them to our friends and our cousins and our cousins' friends. And they always told other people, but I never would sell to my own brothers and tell them anything about it. We quit school and began to hang out at Throop and Elburn, shooting dice.

"Beginning at about this time and for 7 years to follow, we always had the basement of the delicatessen store for our hangout. Here we stored our loot. We would shoot craps on the sidewalk, and buy delicatessen, go to shows and worry the girls.

"Our next racket was 'robbing pennies.' One of us would take a small sledge hammer and with a partner start down Roosevelt Road, looking for peanut machines. One smash and the pennies would come rolling out. We would get four or five slot machines an evening. We could even get some in the daytime. If we were chased we would quit. It was before the pistol was around and if the Jew came out of the store the fellow with the sledge hammer would threaten him. We knew the streets like a book, would run through the alley like lightning, or over the fence into the open lot and were gone. We used to study getaways day and night. We were never caught. Sometimes these owners would trace us and come around, or even the police. When they came we would duck. A little later we began to steal bicycles, as did others in the neighborhood. We

would go out to Oak Park or to some other west side or Hyde Park residence district on the street car, take the bicycles and ride back home on them. We were the same partners; we would use the same basement. We would sell these bicycles, sometimes worth $55 or $65, for four, ten, or fifteen dollars. We always had a half dozen bikes in the basement. This went on until 1924, the same basement at Throop and Elburn. One day a man came around and said he'd give us $9.00 for a 29 × .4 tire. He told us it was easy. He explained to us that we could get a bar clip in a hardware store which we did, and with that bar clip we took that spare tire off the car. We delivered the tire and he gave us the $9. Through him another and another customer heard of us and these passed us on to others. We soon got a list of 'phone numbers of tire customers. Later a single trucking firm would buy many tires from us, leaving orders in advance for what they wanted. This same trucking firm, the owners of which are young men strong in politics and with money, were for a long while general fences for anything stolen and would be willing to buy anything from boys of the neighborhood, but not from anyone outside of the neighborhood. Many of our customers were legitimate working people. We stole tires all over the city and outside of our neighborhood. I soon owned a little Ford coupe and in it we cruised around until we found what we wanted.

"Getting into a jam with the police was new to us but not so new because we heard a lot from other fellows about getting into jams, ducking the police, 'fixing,' springing writs, and getting bail. Others in the neighborhood were in many jams before us, especially the older fellows. We were picked up around the old Empire theater, at Union and Madison street, by the old Marmon squad that used to have a gong on each side. They took us down to the Desplaines Street station. They thought that the Ford I was driving was a stolen Ford and they had us under suspicion for stealing tires. They gave us some beatings. We didn't 'know anything about stealing tires nor machines.' We knew even then that we must take a beating and keep our mouth shut. They let the other fellow out the same evening because I claimed the car was mine. They wouldn't give me permission to 'phone my cousin but the other fellow reached him the next day and he came down and identified me, himself, and claimed the car was his and he let me use it. We were booked for disorderly and the court discharged the case.

"Even though we were four or five years in the rackets it looked like we would never see the inside of a police station. When we were arrested that one time we felt pretty bad about it but it was pretty easy. I can't explain how we were safe so long. We had no 'fix' in anywhere. We used to hear of the older crowd getting pinched all the time but we knew nothing of any station, squad or fix.

"Then we started getting in with the older clique. They hijacked us into their gang but we, too, wanted to be with them. Vito's house was the hangout for the older crowd. I lived across the alley from him and I would see him often, and his pals, Salvi, Babe Ruth, Sharkey, Sam. They were 20 and 21 years of age. At Vito's house it was different than at mine. His family knew what was going on. How could they help it with so many well-dressed young fellows around doing nothing? They were in the big money, after butter-and-egg trucks, dry goods, shoes in loads. They were driving Chryslers; they were having better and bigger times—cabarets, shows, beer joints. We were too small to go around,

we didn't know how to dress and we felt that they were smarter. Then one day they told us that if we wanted to go along with them, 'making' trucks and merchandise they'd take us, and we says, 'all right.' Those fellows were like coppers. Anyway they'd come around and shake us down and hijack us for our money, steal it from us, take it from us. They showed us a way where we could make more money, go out 'making' trucks, butter and eggs, merchandise, making more money. At first they did take us for suckers. They did all the selling. Later we learned the buyers when they let it slip while they were talking. We went to the buyers and asked about the prices. Then we learned about the true prices. Then we told 'em that if they didn't play square with us, no more going out together. We were doing the dirty work, they sat in the machine; 'an even split or nothing.' By this time we had guns. They fitted us out with them, and they said, 'yes.'

"We were down in the basement at Figlio's. Vito asked me if I wanted to try to use a pistol, showed me how to aim. Pointing to the target he demonstrated how a pistol must be aimed lower than the object to allow for the jump (recoil). Later he sold me a 36 Colt (break open).

"Both for tires and trucks later we worked all over town but brought the stuff 'in' (into the neighborhood). With the trucks we had to begin to carry pistols. We met one morning at an appointed time at Edgemont and Loomis (Edgemont is one block south of Elburn, two blocks south of Taylor). 'Let's go out and see if we can get some money,' said Salvi, I don't remember his last name. At Kedzie and Flournoy there stands a truck, butter and eggs. The driver is in the store. I jumped in the truck and drove it east, he and the Ford behind me. His work was to cut off anybody following me in a machine by crowding him to the curb.

"We had our own garage in the neighborhood. Once we got there we would unload the stuff and take the truck out of the district. We would only drive the truck out of the police district (about 4 blocks into the Marquette district, out of the Maxwell St. district). How could we keep the truck? We'd only get caught with it. (We took butter and eggs because there was more money in it and easier to get rid of.) We found out the places where they disposed of the stuff. We knew the places and knew the prices received.

"I can say that in six to eight months, while we were in the butter-and-egg racket, 1924–25, I averaged $150 a week and spent it like water. The coppers did not suspect us of stealing butter-and-egg trucks, excepting one squad that knew it. They knew about stealing tires and machines. We only paid the coppers of the Cadillac squad that toured from 4 to 12 P. M. On their watch the stuff had to be moved to the fence. Once a month one of them would come around to collect. He was in plain clothes. One of the older fellows would collect from us around $125 total and then bargain with the cop. Sometimes the cop was grouchy and wanted $25 more, but he always got not less than $100. If they wanted more you couldn't say no. You couldn't say nothing to them. They'd have something on you so they could pinch you all the time.

"Then Figlio opened his poolroom in the neighborhood, the eight of us started hanging out there, the four older fellows and the four of us. The poolroom drew more fellows from around the neighborhood who were also in little

mobs of two and four and eight in the racket, and the mobs got close, got acquainted that way. Everybody had a racket—some came in little cliques that had their spots like we had the basement or the garage later. No one could be called head. Then Figlio, about two months later, moved to 'Mary's,' a restaurant, around the corner from the poolroom, and the mob started hanging out there. The bunch were all acquainted. I could approach any fellow if they were two or five or twenty, whether they were eating on the inside or hanging around on the outside, and ask him to go on a job. 'Do you want to go on a job? I got something *good.*' There was an elderly man we all trusted there. We left our guns, left our money to bank, whoever kept stuff there would drop him a fin or a sawbuck if you had it when you had it. You could eat there, sleep there; you could receive your 'phone calls—call up lawyers. If you were 'in' (under arrest) the lawyer knew that the mob boys were good. He'd spring a writ for you or do anything for you and collect afterwards because he knew where to find you and that you'd pay if you were of the mob. If you didn't have it the boys would take up a collection for you for springing a writ anyway.

"B and I were then 17 years old. We were in the garage in Cicero and had about 16 stolen cars in a 'public' garage. We used to sell stolen cars to bootleggers. The bootleggers wanted the numbers changed and we had to hold cars until we got numbers from New York so we needed a garage and the bootleggers told us where we could get a big one for $200. If we'd get our money we were willing to pay the price, so we got the garage and started filling up with cars ordered.

"These bootleggers told us how to change the numbers on the cars so that the police couldn't detect the change. We had a mechanic in the garage whose name was Pete, a Polak, who worked on changing numbers. We also had a nigger attendant.

"These bootleggers told us of a man in New York to who we'd write the make, model and year. He would watch for cars of the same description in New York and copy off the numbers. These he would send us printed into the pages of magazines, catalogues, or books. This fellow was a printer. The numbers were countersunk and our mechanic would use dyes to change them. He used a fine instrument to measure the depth so that all the numbers were even (of even depth). After we were through changing the numbers we would throw vinegar on the engine to make the number look rusty. Polak Pete, the mechanic, is now in Leavenworth on a con game."[1]

Criminal Careers a Century Ago

The two cases cited above are presented not for their typicality but merely to illustrate the progressive nature of the patterning process in the production of criminal careers. According to the present knowledge, it is impossible to state with authority whether the subjects are unusually precocious in their criminal development. On the other hand, the question might genuinely be raised as to whether the maturation in crime is

[1] Landesco, John, "The Life History of a Member of the '42' Gang," *Journal of Criminal Law and Criminology*, Vol. 23, pp. 970–981, (March–April), 1933.

typically a modern process, in view of the increased opportunities for criminal association and knowledge. Criminal careers might be, in some respects, more easily developed today than formerly, but in former generations there were habitual and professional offenders and the maturation process was likewise at work. The following summaries from biographical narratives of offenders of a previous day are given with the view of showing that maturation was present formerly as now:

Case of David Swith.—(His biographical narrative appearing in a publication dated 1823.) Born in New York City. Father died when boy was nine. Apprenticed at 14. Ran streets after dark with other boys. Sent to the Bridewell for 2 months for insulting an elderly woman. His companions in the Bridewell were felons, from whom he learned much. Instead of returning home on release, he went with an inmate to board in a bawdy house and lived with a prostitute and pilfered for money. After one month he was caught and given 20 lashes in the Bridewell yard before his mother and other relatives. Felt too degraded and too steeped in guilt to return home. Met up with a former inmate acquaintance of Bridewell. Together they rifled a Catholic Church. Caught and sentenced to the state prison. Pardoned after four years. Continues pickpocketing and burglarizing in New York, extends activities to Philadelphia and Baltimore. Received two more sentences—one for 5 years and the last for 14 years in the New York State Prison.[1]

Narrative of a Burglar.—A London case. Born 1825. From a large family which exercised no discipline over the boy. Demoralized by older brother and bad companions. "Soon after this I left my mother's house, and took lodgings at the coffee house. . . . and engaged in an open criminal career. . . . my companions were in the habit of [cutting purses from women]. . . . I occasionally engaged in these robberies for about three months. . . . I was afterwards prevailed on to join another gang of thieves, expert shoplifters. They generally confined themselves to the stationers' shops, and carried off [silver and gold pencil cases, mounted bottles, etc.]. . . . [I] became very venturesome in robbery [16 years old at the time]. [Went burglarizing with an associate who was soon caught]. A week after I joined two other burglars. . . . I have been engaged in many depradations from 1840 to 1851. . . . In the year 1851 I was transported [to a penal colony]. . . . I returned home in 1854. (Transported again for harboring a criminal and returned home in 1858). . . . and since that time have abandoned my former criminal life."[2]

Narrative of Richard Clarke.—(Given in a publication dated 1853.) Born in Stockport. Placed to work at 12 years in printer's shop, later in a factory, remaining only a short time on each job. Began petty thieving at 10 years. At a local fair he saw a lad he knew pick another lad's pockets. Half hour later he tried it. First picked boys' pockets. Then he tried ladies' pockets. At 14 years he ran away from home with his brother and two other boys. Away

[1] *Inside Out, or An Interior View of the New York State Prison*, etc., By One Who Knows, pp. 224–230, New York, 1823. For other narratives see pp. 217–224, 230–243.

[2] Cited in MAYHEW, HENRY, *London Labour and the London Poor: Those That Will Not Work*, pp. 345–349, London. 1862. See pp. 316–324, 249–255 for other narratives.

for a week, during which time he picked pockets; the others dared not. Caught with one of his buddies and sent to jail for 14 days. After release, he remained "good" for two weeks but would not go to work, and never did work since. Lived by pickpocketing. Gave up poor trade and circulated among better dressed victims. Made special rounds of the fairs on a six weeks' tour with other boys. Made from £35 to £40 in this six weeks and sent £1 a week home. In Manchester he covered a special crowded street section on Market Street and St. Ann's Square. If Saturday was a rainy day and poor business, he would pick pockets in church on Sunday. Received a 3 months' sentence for attempting to pick pockets. "I did not care about imprisonment in the New Bailey, for one of the officers used to bring me in tobacco, pies and rum." Grew more bold and skillful in thieving. Was now making between £9 and £10 per week, all of which went to his mother or was squandered at pubs. Dressed like a gentleman's son. Was 15 years old at the time. Began taking unnecessary risks. Went to a wake and was caught in the act and received 21 days sentence. "I could have got away from the police after I got my sentence, but I thought I would rather go into the Bailey, as several of my companions were there." His younger brother took up thieving, in spite of his efforts to prevent it. After two more sentences, became more cautious about stealing and more cautious about spending money. Received several more short sentences, even in prisons in neighboring towns. Became acquainted with the owner of a wild animal show, picked pockets while other was showing the animals, and gave owner a split. Took up with a woman because one of his associates was living with one. At 18 he was sentenced to transportation.[1]

The opinion might be ventured that the maturing criminal of former times was not so sophisticated or so well implemented as the professional of today. If this statement could be allowed, it would undoubtedly be due to recent accumulations in criminal experience, especially those that have kept pace with mechanical inventions, mobility, and modern organized crime. The difference between the modern matured offenders and their predecessors of former generations, if a difference could be admitted, would probably exist mainly in the degree and kind of sophistication in crime. One gets the impression that, for example, the case of the modern Chicago youth cited by Landesco absorbed the ways of more organized and more implemented forms of crime, which make the criminal careers of the three cases of offenders of a few generations ago look rather infantile.

The Age Curve of Criminal Maturation

Attention has been called to the fact that a criminal career has a history of progressive development and that its sources usually go back

[1] Carpenter, Mary, *Juvenile Delinquents; Their Condition and Treatment*, pp. 54–59, London, 1853. For other narratives see pp. 50–80, for boys' cases; pp. 91–102, 111–116, for girls' cases.

to childhood and early youth. Where does it reach its peak and where does decline set in? What is the relation of biological maturation to the growth of criminal careers? Available information does not enable us to answer these questions with definiteness, but certain insights into these matters have been gained. Sutherland suggests that there is no one-to-one correspondence between chronological age and the amount of criminal sophistication.[1] In other words, an offender fourteen years of age may be more steeped in crime and know more about criminal ways than an offender twenty-one years of age. However, the age curve of crime generally suggests that criminal maturation must go on within a certain age span. General crime reaches its modal age in the young adult period and declines thereafter. The active crimes apparently reach their peak of concentration at younger ages than do such crimes as counterfeiting, forgery, and embezzling, which appear to be more mature offenses.[2] Goring suggested that the age curve of crime reflected the biological outcropping of criminal tendencies.[3] Sociologically speaking, it merely reflects the forces within society differentially working on persons of various age levels.

It is reasonable to suppose that the peak of maturation in ordinary criminal careers, *i.e.*, those of repeated and habitual offenders, is generally reached in young adulthood, although individual offenders may show considerable variation in amount of sophistication in crime. There is more likelihood that an ordinary criminal career will get under way in youthful ages and reach its climax in young adult ages than that it will get under way in young adult ages and reach its climax in middle life. In very specialized professional criminal careers and in the careers of abnormal offenders, the age of climax is likely to be older.

The Gluecks have shed considerable light on aging as related to careers in crime. Of a group of consecutively discharged male inmates of the Massachusetts Reformatory whose careers were followed up in a second five-year period after release from parole, the ones who were found to be nondelinquent in this period were subjected to special analysis. Of the 118 men who were nondelinquent in this period 16.1 per cent had reformed when they were under twenty-one; 33.8 per cent, when they were twenty-one to twenty-five; 31.3 per cent, when they were twenty-six to thirty; 14.4 per cent, when they were thirty-one to thirty-five; 4.1 per cent, when they were thirty-six and over. These findings were considered to mean that the peak age of reforming or settling down for this group of offenders was reached in the twenties. The percentage of offenders who were seriously delinquent in the second five-year

[1] SUTHERLAND, *op. cit.*, pp. 181–182.
[2] See pp. 103–109.
[3] *The English Convict*, p. 212, London, 1913.

period showed a progressive decline by age groups up to thirty-five years of age and a substantial increase after thirty-six years of age. The proportion of property offenses during the second period of check markedly decreased with advancing years, while the proportion of drunkards markedly increased with advancing years. The percentage of lone offenders at the time of follow-up was fairly constant for age groups twenty-one to thirty-five, but increased strongly in ages thirty-six and over. Analyzing various other indexes of improvement in social condition, it was found that there was an improvement with advancing age up to age thirty-six, after which decline set in, *i.e.*, a "retrogression to less favorable conditions." Hence, "the process of improvement in large measure ceases by the time the age of thirty-six is reached."[1] By isolation of factors, the Gleucks discovered that the operation of mental abnormalities and personality deviations was most visibly responsible for blocking reform or improvement after the thirty-sixth year.[2]

The Gluecks' study of the reforming process accompanying advancing age suggests that ordinary criminal careers reach their culmination and turning point (dissolution) in the young adult period of life, *i.e.*, in the twenties, and that those criminal careers that have not dissolved by the age of thirty-six are characteristically lone-wolf careers and characteristically careers of men whose mental make-up is abnormal. The implication is that criminal careers of mentally normal offenders are broken up in the young adult ages with the settling-down process of time, while aging is unable to dissolve the criminal careers of offenders who have mental difficulties. Whether these conclusions will be corroborated by further research remains for the future to tell.

It is doubtful that the Gluecks' findings are applicable to the careers of truly professional criminals. Conwell, a professional thief himself, makes the observation that one must stay out of prison, if he is a professional, and that immunity is achieved by the ability to "fix" cases.[3] In reenforcing this point, Sutherland cites instances of professionals whose long careers were not interfered with by arrests and hardly even touched by convictions.[4]

Principal Sources of Criminal Behavior Patterning

Schooling in crime usually takes place in various types of association. While the interest in the material presented on organized crime was mainly leveled at the different forms of concerted criminal enterprise,

[1] Glueck, Sheldon, and Eleanor T. Glueck, *Later Criminal Careers*, pp. 105–106, 108–123, New York, 1937.

[2] *Ibid.*, p. 133.

[3] Conwell, *op. cit.*, p. 82.

[4] *Ibid.*, p. 82n.

most of these formal or informal organizations provide opportunities for getting schooled in criminal ways. This is certainly true of the criminal tribes of India and the gypsies. The younger generation learns the ways of the older generation. It was rumored that Cartouche provided a clothed dummy with a great number of small bells sewed on the apparel in order that novice pickpockets could learn how to operate without detection, *i.e.*, rifle pockets without jingling the bells. [1] The Old Brothers association in China put novices through a rigorous physical and manual training course, including ritual and initiation.[1] Boys' gangs in American cities, which become predatory and delinquent in activities, have ways and means of finding out how to perform crimes, of contacting underworld agencies, and of passing along criminal experience to their members. And in large American cities there seems to be a graduation of young gang hoodlums into bands of older and more sophisticated cliques of professional gangsters. A predatory neighborhood gang, if successful and noticed, may be taken up by or invited into an older gang, practicing more daring, more skillful, and more profitable crime. The successful gang members finally climb the ladder of crime and become affiliated with the big, important gangster organizations, which specialize in racketeering and high-paying organized crime. The American gangster, therefore, has generally been heavily schooled in crime, coming up successfully from the lower ranks of gang life.

Association and Companionship[2]

While schooling in crime takes place in the group situation, it also takes place in personal association outside definite groups or organizations. When the older, sophisticated criminal profoundly influences a novice toward pursuing a criminal career or transmits criminal knowledge and attitudes to the youngling, a protégé relationship is set up. It is suspected that this sort of relationship is just as much in evidence in the world of crime as it is in the world of the approved vocations, *i.e.*, in education, business, religion, art, and sport. In both areas of life, underworld or respectable, the factor of prestige operates. The more prestige the mentor has in the eyes of his protégés, the more profound is his influence on the character and career of the novices. However, the protégé relationship is very apt to be more casual and unintentional in the world of crime than in the world of accepted callings. For there seems to be much less interest on the part of criminals than on the part of others in proselyting and profoundly affecting youth. In fact, many

[1] Ching-yueh Yen, *Crime in Relation to Social Change in China*, pp. 203–209, Ph. D. dissertation, University of Chicago, June, 1934.

[2] See pp. 231–235 for additional material bearing on the companionship factor in crime.

professional criminals avow that they do just the opposite, *i.e.*, discourage youth from entering crime and shield certain younger relatives from criminal infection.

Reported instances of the criminal mentor's really trying to win converts are rare indeed. The closest approximation to this sort of thing in published American case studies of juvenile offenders is cited in the summary of Chinky's case in *Children Astray*, where the boy is put up to criminal pranks by a master crook in the slum neighborhood.[1] A more common type of mentor-pupil relationship found in case histories of youth is accidental, casual, and unintentional.

More frequent is the type of influence that an older or more sophisticated companion has on his suggestible follower or unsophisticated associate. Indeed, it is now strongly suspected by sociologists that youths have more telling effect on other youths than adults have on them. And the informal, spontaneous, unpremeditated transfer of criminal skills and attitudes from youth to youth and from young adult to young adult, whether in the group situation or in the companionship situation, is probably the most common form of schooling in crime.

Secondary Sources of Criminal Corruption: Agencies of Mass Impression

While the primary source of criminal behavior is found in association, the secondary source is located in substitutes for association, such as books, magazines, newspapers, cinema, radio, and so forth. Pernicious literature has long been suspected of instilling criminal motivation, heroizing criminal activity, and imparting knowledge—so much so that efforts have been made to curtail the dissemination of lurid tales of crime and lasciviousness. While responsibility of literature, newspapers, cinema, and radio for any appreciable direct effect on criminal behavior has been minimized, these same sources are claimed to have tremendous effect in other fields of behavior—so much so that they are recognized to be the prime agencies of modern propaganda. Convincing studies of the direct or indirect effects of the radio, newspapers, and literature on criminal behavior have not been made. Case histories of offenders which seek to ferret out causative factors of criminal behavior seldom mention or take cognizance of corruption from these sources. Nevertheless, their influence on criminal behavior must undoubtedly be greater than is known or admitted, although probably not so great as on the more approved forms of habits, manners, tastes, beliefs, and interests.

A special study, looking specifically for direct and indirect influence of the cinema on delinquency and crime, was made by Blumer and

[1] Drucker, Saul, and Maurice Beck Hexter, *Children Astray*, pp. 387–388, Cambridge, Mass., 1923.

Hauser. Using life history, interview, and questionnaire data, they discovered that "motion pictures were a factor in delinquent careers of about 10 per cent of the male and 25 per cent of the female offenders studied."[1] This represents a gauge of direct effect of movies on the behavior of the sample cases studied, since the subjects, included in these percentages, claimed they were motivated by film content to commit offenses or cited instances where, soon after attendance at the moving picture, they enacted behavior patterns witnessed on the screen. Many subtle but indirect influences of movies on criminal behavior were also detected in the case data of this study—influences that came to the subjects in the form of arousing desires for easy money and an easy life, inducing a spirit of bravado, glorifying criminal roles, and stimulating sex desires.

When the claim herein has been made that the movies, radio, newspapers, novels, and magazines constitute a secondary source of criminal behavior patterning, it is not made in the spirit of criticism. No balanced person could fail to overlook the tremendous benefits and constructive influences coming from these agencies of mass impression. And no balanced person would conceive that it is possible or desirable to make any human agency 100 per cent incorruptible. The movies, radio, newspapers, and literature have been viewed mainly as modern culture carriers —carriers of action and thought patterns that influence behavior and that were formerly transmitted only by association and personal contact. In spite of policies of censorship, many patterns of criminal activity and attitudes are inevitably and naturally carried, as are patterns of child care, hygiene, sports, politics, business, and so forth.

There is one angle to transmission of patterns by agencies of mass impression that should receive increasing attention in the future. The point has been made by Sutherland that the patterns of conduct from what he calls public culture, derived from sports, politics, underworlds, movies, newspapers, and radio, are more accessible to certain groups of children in modern cities than are the patterns of private culture that are the virtues and standards of behavior transmitted in the home, the school, the church, the neighborhood, and the village.[2] It may even be found that the social influence of the former is more powerful than that of the latter. At any rate, in most modern countries, the patterns of behavior taken over from public, secondary sources frequently conflict with the norms of conduct approved in the private and more domestic sources, resulting in demoralization and delinquency of children and young adults.

[1] BLUMER, HERBERT, and PHILLIP M. HAUSER, *Movies, Delinquency and Crime*, p. 198, New York, 1933.

[2] SUTHERLAND, EDWIN H., "Social Process in Behavior Patterns," *Publications of the American Sociological Society*, Vol. 26, no. 3, pp. 55–61, 1932.

Loci of Criminal Maturation: Urban Areas

There are certain areas, places, haunts, and institutions that are loci for the perpetuation of criminal activity and the fostering of criminal behavior patterning. Any local region or section heavily loaded with persistent criminal activity is just such a locus for maturing criminal careers. Generally speaking, the urban community, as over against the rural community, seems to possess the circumstances, conditions, and opportunities for continuation in criminal practices, and to attract from round about those partially matured offenders who are interested in pursuing a criminal trade.

Thomas and Znaniecki contended that the habitual criminal was rare among the prewar Polish peasants. "Most of the crimes we do find seem to have some moral justification in the eyes of the criminal himself. There is a tragic element which is entirely lacking in the behavior of habitual criminals."[1] Also by way of contrast with the urban situation, the New York Crime Commission found that professional and organized crime was not a problem in two rural counties of New York State that were studied intensively. "Probably no one lives entirely upon the spoils of criminal activity."[2]

One of the best done early pieces of research on recidivism, emphasizing the locality differentials in crime in England and Scotland, comes to the conclusion that "without exception recidivism is in the main a product of urban life," and "is rarely met with in rural districts."[3] Tarde attempted to give the reasons why recidivism is so marked in cities.

> Where is the progress of the repetition of offenses more marked than elsewhere? In great cities, because, having reached a certain point in density and size, these forests of men enable malefactors to find once more, under the form of cafés and unlicensed dwellings, their caves of former times. "In forty cities which have over 30,000 inhabitants," says an official report, "there is to be found one recidivist for every three hundred and seven inhabitants, whereas in cities having a smaller population only one recidivist is to be found for every seven hundred and twelve inhabitants." But it is especially in cities having a population of more than 100,000 that the proportion of recidivists, with relation to the number of either the population, or of persons sentenced, rises to a level which is significant. In these cities the number of offenses is legion, but, conversely to ordinary armies whose maxim is to disperse in order to live and to concentrate

[1] Thomas, William I., and Florian Znaniecki, *The Polish Peasant in Europe and America*, Vol. 2, pp. 1151–1152, New York, 1927.

[2] The Crime Commission of New York State, *A Study of Delinquency in Two Rural Counties* by the Sub-Commission on Causes and Effects of Crime, prepared by Harry M. Shulman, p. 46, Albany, N. Y., 1927.

[3] Sutherland, J. F., *Recidivism: Habitual Criminality, and Habitual Petty Delinquency*, p. 34, Edinburgh, 1908.

in order to act, this hidden army disperses in order to act under the vigilant supervision of the police and gathers itself together in order that it may live on its plunder. It is none the less a very flourishing corporation at this present time, and we can readily understand why this is so. "Upon what does the fact of some particular trade being prosperous generally depend?" I asked in a former work. "First of all upon the fact that it pays better, then upon the fact that it costs less, finally, and especially, upon the fact that the ability to exercise it and the necessity for exercising it have become less rare or more frequent. Now all these circumstances have combined in our time to foster that particular industry which consists in plundering all the others."[1]

While the large urban center of population appears to be the principal locus for fostering criminal careers, we should not lose sight of special nonurban areas that are provocative of continuous practice of criminal pursuits. The frontiers, the borders, and rural areas with a lawless tradition need to be considered, along with cities, as encouraging the maturation of criminal careers and the continuation of the person in crime and lawless activity.

The material presented in the chapters on Areal and Regional Differences in Crime led us to suspect that the city in its entire expanse is not uniformly active in fostering criminal careers. There are many well-ordered urban neighborhoods in which the incidence of crime is low and in which the social forces are actively preventing crime and criminal pursuits among the inhabitants. But there are urban localities with high incidence of delinquency and crime and it is these disorganized areas, usually slums, which particularly foster the continued practice of crime. This may be because the social order in slum neighborhoods cannot combat the forces of corruption, underworld tradition, and criminal association. Landesco has pointed out that in these disorganized areas of the city the social institutions of the dominant moral order fail to reach the children who are exposed to the patterns of the underworld or criminal tradition.[2]

The haunts, headquarters, and fences of the criminal underworld have traditionally been located in the slum areas of European and American cities, and so have the interlocking resorts of the underworld of commercialized vice. These areas also have housed the operations of corrupt political machines in American cities—organizations which have been closely affiliated with the underworld of vice and crime. The social soil of the underworld slums, the so-called badlands of the city, has therefore

[1] TARDE, GABRIEL, *Penal Philosophy*, translated by R. Howell, p. 385, Boston, 1912. By permission of Little, Brown & Company, publishers.

[2] LANDESCO, JOHN, "Crime and the Failure of Institutions in Chicago's Immigrant Areas," *Journal of Criminal Law and Criminology*, Vol. 23, no. 2, pp. 238–248, 1932–1933.

nurtured the development of criminal careers and the persistence of criminal practices.

However, in modern times the living quarters, meeting places, and operations of criminals are no longer confined to the slum neighborhoods but are spread more widely throughout the city, under the cloak of increasing urban anonymity and under the influence of rapid transit.

The belt around the corporation limits of American cities which is not occupied by well-ordered suburban residental communities has progressively become a locus for decentralized criminal and outlaw enterprise, made possible by greater mobility of population and increased transportation facilities. These suburban underworlds have grown up on the outskirts of law enforcement, in areas assuming the character of a suburban frontier, in sections changing from rural to suburban habitation.

No matter whether criminal underworlds are confined or scattered in modern cities, the point is that the haunts, establishments, headquarters, fences, and resorts of criminals provide a locus for criminal contact, association, organization, and activity. As such, they foster the maturation of criminal careers of individuals brought within their influence.

Contacts in Penal Institutions[1]

Penal institutions, jails, and places of detention have likewise constituted an unpremeditated locus for criminal association and contact and for the transfer of criminal knowledge and attitudes from the more to the less sophisticated offenders. While prison programs have attempted to counteract or suppress inmate maturation in crime, to date they have not been able to do so successfully in most prison systems.

John Howard, famous English prison reformer and prison surveyor of the late eighteenth century, listed, among several other bad conditions in English prisons about the time of the American Revolution, the corruption of morals of inmates, the ruining of young offenders, the spread of wickedness among prisoners, and the planning of later crimes during a prison term.[2] A hundred years later than Howard, an inmate of English prisons observed, in his treatise on convict life, that "at the present time convict prisons are breeding-dens for the procreation of professional thieves."[3] Livingston, years ago, called attention to the danger of vicious association in the incipient stages of a criminal career, especially during the preliminary imprisonment while awaiting trial.[4]

[1] See pp. 236–237 for additional material bearing on this point.

[2] Howard, John, *The State of the Prisons*, Everyman's Library ed. (evidently taken from the 3d ed., *c.* 1784), pp. 1–10, J. M. Dent and Sons, London, 1929.

[3] By a Ticket-of-Leave Man, *Convict Life; Revelations concerning Convicts and Convict Prisons*, rev. ed., p. 20, London, 1880.

[4] Livingston, *op. cit.*, Vol. 1, pp. 537–539.

The great Dutch criminologist, Bonger, insists that wholesale and unclassified incarceration of offenders makes for a criminal university.[1]

Forces of Constraint

Besides the principal sources and locations for the development and perpetuation of a criminal career, there remain to be considered certain active social forces that hold the offender in a life of crime and constrain him to continue in criminal ways.

The scheme of values and philosophy of life, developed as a result of criminal experience and contact, certainly influence the offender's interest in pursuing a criminal career and make him indifferent or unwilling to reform. A life of crime holds out the prospect of easy money, luxury, excitement, and the chance to become notorious—a "big shot," in American slang parlance.

> The lure of easy money is constantly dangled before them [youthful offenders] by criminal associates and others with whom they come in contact. [The average young criminal today] doesn't want to work, and he wants money, and he is going to obtain that money by direct action. Your criminal of today—the very hardened young criminal—believes that the law of the land is the dollar. There is a tendency to exalt the criminal and extend more sympathy to him than his victims.[2]
>
> The conspicuous expenditures and lavish display of the *nouveau riche* of the underworld [the American gangster] confuse and pervert the traditional standards and values of even the law-abiding persons in the community. The youthful gangster contrasts the "easy money" and the "good times" of the gambler, beer runner [during prohibition in America], "stick-up artist" [hold-up robber] and "con man" [confidence game] with the low wages and long hours of "the poor working sap" [man]. He speaks in flowing admiration of the power, the courage, the skill, the display and the generosity of the outstanding gang leaders. His glorification of the life and the characters of the underworld is complete evidence of the absence of any inferiority or shame about his own criminal aspirations.[3]

As opposed to the opportunities of a criminal career, respectable society may be able to offer most offenders on the brink of a professional career only a life of drudgery, monotony, and mediocrity, besides the dubious warning that "crime does not pay."

[1] Bonger, W. A., *An Introduction to Criminology*, translated from the Dutch by Emil Van Loo, p. 157, London, 1936.

[2] *Crime and Crime Control*, Investigation of So-called "Rackets," Digest of Hearings held before a subcommittee of the U. S. Senate Committee on Commerce during the year 1933, pp. 5, 7, Washington, D. C., 1934.

[3] Adapted from John Landesco, "The Gangster's *Apologia Pro Vita Sua*," in the *Illinois Crime Survey*, The Illinois Association for Criminal Justice, pp. 1046, 1048, Chicago, 1929.

In addition to viewing crime from the standpoint of materialistic opportunities, there are other features to a professional criminal philosophy of life. Professional criminals are willing to run the risk of getting caught and to match their criminal wits and skills against detection and apprehension. They have the feeling that what they are doing is beating the game or getting their share, just as others are doing and in no more reprehensible fashion than politicians, lawyers, bankers, or police in a corrupt society. And furthermore, they seem, for the most part, to have no remorse for what they have done.

A criminal record, although not so thoroughly as in former times, means a partial or almost complete rupture with respectability. The dominant religious, legal, educational, and economic order has consistently placed barriers in the way of ready or easy reincorporation of criminals into respectable society. Although there has been considerable softening of attitude on the part of modern society in the interest of rehabilitating offenders, they are still largely stigmatized. "Once a criminal, always a criminal" still largely holds true in the attitudes of the majority of citizens. A known criminal record makes it difficult for offenders to reenter the normal channels of life and to make a fresh start.

The offender's previous companions in crime and previous associates in jails and penal institutions likewise act as a backward pull and often constrain individuals who are making an effort to "go straight" to continue in criminal activity.

The antisocial grudges, frequently developed as a result of embittering experiences with officers, courts, jails, and prisons, also operate adversely on offenders. Some offenders are so embittered that they desire to continue in crime in order to get revenge on society and its authorities.

Closely allied to stigma and antisocial grudge, if not altogether a by-product of these forces, is the development of a criminal class consciousness. The criminal code of mutual aid and protection likewise helps to preserve solidarity of criminals against organized society. Expressed in sociological terms, many criminals, especially the professional ones, develop a "we-group" feeling and a consciousness of kind. This social solidarity of the criminal class develops not only in conflict with organized society but also among the criminal gangs and organizations that may be in conflict with one another.[1] The offender who has been vaccinated with the criminal code and with criminal class solidarity clearly develops a strong immunity to the values of a law-abiding existence.

[1] See CLARK, CHARLES L., and EARLE E. EUBANK, *Lockstep and Corridor; Thirty-five Years of Prison Life*, University of Cincinnati Press, pp. 144–156, 1927.

Finally, the opportunities to evade detection, to beat the "rap" (*i.e.*, avoid a sentence), to "fix" arrests or prosecutions, to buy "protection" from police interference, to slip through the legal process by use of habeas corpus proceedings, jumping bail, continuations of trials, lesser pleas, "nol-pros," and so forth, especially in American cities, give much encouragement to the persistence of criminal careers. Wherever criminal justice is lax, uncertain, slow, there is a certain amount of encouragement to professional criminal careers.

Conclusion

The contention in this chapter has been that repeated, habitual, and professional offenders represent socially processed careers in crime and various levels of criminal sophistication and maturation. The attitudes, drives, techniques, and philosophy of life characterizing a career in crime, are developed from contact and association. Criminal careers become visible in the histories of repeated and continuous offenders. The more continuous the careers, the more they will show criminal sophistication and maturation in terms of acquired patterns of criminal conduct. The greatest amount of processing, *i.e.*, the cumulative acquisition of appropriate skills, technique, knowledge, attitudes, and scheme of life, is to be found in the careers of professional criminals, who attain their status, as do persons in other professions and trades, after considerable tutelage and experience.

From this point of view, it does not matter what the specific original causes are that throw an individual on the "assembly line" of crime. Individuals may be thrown into or fall into crime for varying combinations of reasons. But once on the production line, they will be socially processed, if they stay on long enough. In large part, the various grades of processed criminal careers represent the impact of criminal culture on individuals. The reasons for dropping off the production line of criminal maturation are in many respects not so obvious as the reasons for staying on, *i.e.*, continuing in crime.

The evidence for the social processing and maturation of criminal careers is more apparent than is the evidence for the existence of a criminal constitution—a conception which has been used by European criminologists to explain criminal careers.[1] Even if we admitted the existence of proneness to crime or of criminal tendencies, it is rather inconceivable that criminally prepotent individuals would develop careers in crime unaided by social processes of criminal maturation.

[1] See pp. 190–197.

CHAPTER IX

THE SEARCH FOR CAUSES

It is impossible in the existing state of criminological knowledge to say just what are the causes of crime. Anyone who attempts to do this is far transcending the bounds of definite knowledge. A presentation of a list of causes or a set of causative factors, consequently, would be only an exercise in unwarranted speculation. A list of causes, no matter how logical, could not indicate the degree of acceptance or the importance and the weight of any given causative factor, since no general agreement on such matters has taken place between scholars and researchers in the field of criminology.

Instead of a body of demonstrable and acceptable knowledge on the etiology of crime, we possess at present a body of theory, points of view, and more or less controversial conclusions from research. Knowledge of the etiology of crime is therefore in a nebulous state rather than in a state of positivism. Thus, it is only possible to examine some of the outstanding points of view, theories, and research in causation of crime, with a view toward gaining critical insight into their efficacy and operational importance.

If a contrast can be made between the present-day search for the causes of crime and the study of the etiology of crime a generation ago, it would be that greater attention is being given now to the study of the offender (the criminal or delinquent) and of criminal behavior and less attention to the explanation of crime in general. Most of the theories of criminologists in the latter part of the nineteenth century and early part of the twentieth century attempted to explain crime in general rather than the criminal behavior of specific individuals.

Before we examine the modern contributions to etiological knowledge of criminal behavior, a reexamination should be made of the more outstanding general theories of crime which were expounded by criminologists of the past generation and which have now become classical, discarded, partially accepted, or modified. These theories ran the gamut from seizing upon physical, topographical, and climatic factors, through the biological, constitutional, and psychological factors to factors in the social milieu.

Lombroso's Theory

Writing soon after the theory of evolution had gained scholarly currency, the laws of heredity were being delved into, and the science of anthropology was dawning, Lombroso applied liberally the contentions and principles of these growing fields of science to the explanation of criminal behavior. He contended that there was among various kinds of criminals a born criminal type, which was characterized by anomalies of body and mind. The type as well as the anomalies were originally explained by atavism—the reversion or throwback to the primitive. Born criminals were supposed to possess a greater measure of anomalies than criminaloids, occasional criminals, and criminals of passion. These anomalies were also supposed to be much more frequent in the criminal than in the noncriminal population. Some of the many anatomical and mental anomalies of the born criminal, which according to Lombroso were the visible evidences of the reversion to a primitive type, were: asymmetry of skull; low, retreating forehead; strongly arched brows; large, outstanding ears; sparse beard; tatooing; left-handedness; relative insensibility to pain; acuteness of vision; obtuseness of the sense of smell or of vision, taste, touch, and hearing; absence of remorse; lack of moral sense; violent temper; extreme vanity; improvidence; and so forth.[1]

Lombroso later included so many anomalies as characteristic of criminals of various types that the mere atavistic origin was no longer an adequate explanation of them. He therefore admitted the pathological origin of several and explained them by the concept of degeneracy or disease. At the same time he discovered that the so-called morally insane and epileptic had many mental and behavior traits in common with criminals and also between themselves. Both criminals and epileptics, the claim was made, show deficiency in or alteration of the higher inhibitory centers of the nervous system, manifesting deterioration in moral sensibility, extremes of stupor and hyperexcitability, of stupidity and flashes of genius, and mental unbalance. The epileptoid basis of criminals helped Lombroso to explain much paradoxical behavior in criminality, not otherwise explanable by atavism or pathology (degeneracy).

The anatomical and mental anomalies of born criminals and to a lesser degree of other types of criminals were arrived at mainly by spurious observations. The most damaging blow to Lombroso's claims for the physical anomalies of criminals came from the research of Goring, whose actual physical measurements of English convicts gave no evidence of the existence of such anomalies among prisoners and no evidence that

[1] Lombroso, Cesare, *Crime, Its Causes and Remedies*, translated by Henry P. Horton, pp. 371–372, Boston, 1918.

the criminal population was physically different from the noncriminal population.[1] In reality, Lombroso did not use actual measuring devices to substantiate his claims for a distinct physical type of criminal and used no control-group measurement of the same traits among a noncriminal population of the same age, race, sex, and class.

Likewise, the mental anomalies (emotional, sensory, and intellectual) were mainly figments of speculation. They correspond very readily with Herbert Spencer's description of the mind of savages.[2] In this dawning era of anthropology, primitive peoples were thought to fall mentally and culturally on an evolutionary scale between the "missing link" and civilized man. But such speculations about the savage mind as were prevalent in Spencer's and Lombroso's time have since been held unwarranted and have been overthrown by later anthropological researches.[3] Lombroso therefore made unwarranted application of theories of evolution, embryology, histology, pathology, and anthropology to his study of criminality, the methods of which merely consisted of impressions, cursory observations, and speculations.

While Lombroso is known most widely for his attempt to establish physical and mental type of criminal, it is wholly wrong to infer that he stopped with atavism, degeneracy, and epilepsy in his explanation of crime. As a matter of fact, he took into account all sorts of physical and social environmental factors and called attention to their influence on crime: meteorological and climatic influences, density of population, immigration and emigration, famine, alcoholism, illiteracy, poverty and unemployment, occupation, age, religion, illegitimacy, imitation. He recognized that such influences constituted the milieu of criminal behavior. But in calling attention to the influences of the sociophysical environment, he mainly borrowed from extant theories and works of other criminologists. He made no outstanding contribution to the environmental conditioning of crime. And furthermore, he failed to relate the environmental factors to crime and to the physical and mental constitution of criminals, except in a most general, inferential, and speculative way.

Since he did not use an individual-case approach, he could not indicate how the conditioning and constitutional factors specifically operated together to cause criminal behavior. While Lombroso expounded merely generalities about criminal behavior or a general theory of the constitutional and environmental causes of crime, he did pave the way

[1] GORING, CHARLES, *The English Convict*, London, 1913.

[2] SPENCER, HERBERT, *Principles of Sociology*, pp. 54–91, D. Appleton-Century Company, Inc., New York, 1892.

[3] BOAS, FRANZ, *The Mind of Primitive Man*, New York, 1938; PAUL RADIN, *Primitive Man as Philosopher*, New York, 1927.

for later researches on the criminal. His influence on modern criminological research, especially from the standpoint of hereditary, constitutional, and glandular factors in causation, has been profound. In fact, his greatest contribution probably lies in the fact that he started a focus of attention on the criminal and diverted attention from crime in the ongoing study of causation.

TARDE'S THEORY

Quite opposed to Lombroso's theory of a constitutional type of criminal was the theory formulated by Tarde. He contended that there was no evidence of a physical type of offender or even physical types of offenders, and that such type or types were merely conjectural.[1] In fact, he refuted the claim that criminals are madmen, epileptic, atavistic, and degenerate.[2] Tarde insisted, on the other hand, that criminals are a professional type, who have developed a career in crime. Crime as a profession readily recruits individuals just as do other callings. This social selection, according to Tarde, is sufficient to explain the often perceived similarities (more easily perceived than measured) in physiognomy, physique, and psychological traits.[3] But the psychological traits of the Lombrosian formulation, particularly vanity and lack of feeling, can be the effect of crime, according to Tarde, as well as its cause and are far from being exclusive traits of criminals.[4]

Tarde minimized the role of physical causes of crime, such as the effect of temperature and seasons on crime. He felt that the true variable is the status of civilization rather than temperature, the effect of customs and contacts rather than of seasons, and that thermal and seasonal variations in crime operate through customs and contacts rather than directly.[5]

He finally arrived at the position that the social causes are the important causes of crime and that they function through the laws of imitation, which permeate all acts of social life, criminal behavior included. By imitation Tarde meant copying examples and the contagious spread of behavior patterns from person to person, place to place, generation to generation. He contended that imitation follows certain laws that indicate the source, direction, and intensity of contacts: people imitate in proportion to closeness of contacts; the movement is usually from upper to lower classes and from city to country. He cited all sorts

[1] TARDE, GABRIEL, *Penal Philosophy*, translated by Rapelje Howell, pp. 218–221, Boston, 1912.

[2] *Ibid*, pp. 228–251.

[3] *Ibid.*, pp. 251–256.

[4] *Ibid.*, p. 259.

[5] *Ibid.*, pp. 297–318.

of illustrations as to the way imitation works in ordinary as well as in criminal behavior.[1]

He claimed that many crimes—such as pillaging, marauding, arson, poisoning, poaching, assassinations, and rape—which are now common among the masses, used to be activities of noble classes. He gave specific examples of the origin and spread of crime in and from urban centers and capitals.

> Each variety of murder or theft invented by evil genius is born or takes root in Paris, Marseilles, Lyons, etc., before becoming widespread throughout France. The series of corpses cut to pieces began in 1876 with the Belloir case and was for a long time confined to Paris, Toulouse, and Marseilles; but it was carried on in the Departments of Nièvre, Loir-et-Cher, and Eure-et-Loir. The feminine idea of throwing vitriol in the face of a lover is entirely Parisian; it was the widow Gras, who, in 1875, had the honor of inventing this, or rather of re-inventing it. But I know of villages where this seed has borne fruit, and the peasant women themselves now try their hand at the handling of vitriol. In 1825, in Paris, Henriette Cornier cruelly put to death a child of which she had the care; not long afterwards, other children's nurses yielded, for no other reason than this, to an irresistible desire to cut the throats of their employers' children. With regard to thefts the same thing applies. There is not a single means of swindling at village fairs which did not first see the light of day upon a sidewalk of Paris.[2]

The factor of imitation-suggestion is known to be an important cause in many criminal cases, no matter whether the behavior patterns have been taken over in modern times from companions, news reports, magazines, books, cinema, or radio. However, the social causative factors of criminality cannot be reduced to one principal factor, namely, imitation. Suggestion-imitation is not obvious in all cases; merely in some cases.

As in the instance of Lombroso, Tarde's theory was based on general observation rather than on the detailed analysis of the operation of causative factors in individual cases. There is, on the other hand, considerable sociological merit in Tarde's observations. That criminality often develops into a professional career is in line with acceptable facts; that the individuals who have developed a criminal career develop this career throughout a considerable span of their lives from childhood on is likewise demonstrable; that they develop characteristic attitudes and schemes of life incident to their careers is also evident. Indeed, the recent attempts to work out the process of maturation of criminal careers and the behavior-patterning process by which criminal activity and attitudes are taken over by persons who are becoming steeped and

[1] *Ibid.*, pp. 331–362.

[2] TARDE, GABRIEL, *Penal Philosophy*, translated by R. Howell, pp. 339–340, Boston, 1912. By permission of Little, Brown & Company, publishers.

sophisticated in crime were certainly anticipated by Tarde. Perhaps one of the weakest links in Tarde's application of imitation-suggestion to behavior exists in the fact that he offered no thorough explanation for certain individuals' succumbing to suggestions of criminal patterns of activity and the vast majority of noncriminal persons not succumbing to these suggestions.

Bonger's Theory

The Dutch criminologist, Bonger, likewise emphasized the environmental determination of crime and found very little place for individual factors in his explanation. He considered crime as an antisocial act rather than a biological impulsion.

> From a biological point of view almost all crimes must be ranked as normal acts. The process which takes place in the brain of the gendarme when he kills a poacher who resists arrest is identical with that which takes place in the brain of the poacher killing the gendarme who pursues him. No anthropologist (evidently of the Lombrosian school) would maintain that a policeman clubbing a mob of strikers was performing a biologically abnormal act, or that the strikers were abnormal because they did not choose to let themselves be maltreated without defending themselves. It is only the social circumstances which class this defense as a crime, and cause the action of the police to be considered otherwise.[1]

Bonger reduced the principal causes of crime to one underlying factor—the economic pressures of a capitalistic system. Under the capitalistic system man has become egoistic and "more capable of committing crime."[2] The capitalistic order has therefore had a "prejudicial influence upon character," especially upon the life and behavior of the proletariat.

While it is impossible to give in condensed form all the lines of evidence and argument used by Bonger, he presented statistics to indicate that child labor, a by-product of capitalism, has been responsible for the increase in juvenile delinquency in countries that have become industrialized and that a greater proportion of juvenile delinquents than of nondelinquents follow a trade. The factor of child labor is important although, he said, it is not so important as "the lack of care of the children among the proletariat."[3] He contended, without offering statistical proof, that long hours of work have a deleterious effect on behavior and that bad housing conditions, incident to the condition of the masses under capitalism, have likewise had a bad effect upon conduct. He inserted

[1] Bonger, W. A., *Criminality and Economic Conditions*, translated by Henry P. Horton, p. 378, Boston, 1916. By permission of Little, Brown & Company, publishers.

[2] *Ibid.*, p. 407.

[3] *Ibid.*, pp. 409–419.

dubious and inconclusive statistical data to show that criminals tend to come from bad housing quarters.[1] Unemployment and economic insecurity, by-products of industrialism, were considered important factors in producing crime; ignorance and lack of education also. In the latter instance, he cited statistics to bolster his claims that "the illiterates supply, in general, a great proportion of the criminals, a proportion much greater than that of the illiterates in the general population."[2] He also offered statistics to prove that the majority of criminals come from the poorer classes—from the nonpossessors of the means of production. "The poor supply a very great proportion of the convicts, in every case a greater proportion than they bear to the population in general, and the well-to-do form only a small part. Proportionately the nonpossessors are more guilty of crime than the possessors."[3]

Bonger minimized the importance of individual differences in explaining crime. "Individual differences are of great importance for one who is studying an individual by himself, but they do not belong to the domain of the etiology of crime." A person with "weak social instincts runs more danger of becoming a criminal. But the certainty that he will become such does not exist—that depends upon the environment."[4] He admitted, however, that there are pathological crimes, although they are quite rare, and that some pathological individual factors operate to produce crime. But they must operate along with environmental factors. On the other hand, the socioeconomic conditions among the poor were held to be just as responsible for the individual pathological traits as the inherited or biological factors.[5]

Admittedly, Bonger is influenced by the socialistic theories of Marx and Engels, in placing the underlying blame for crime on the economic pressures created by the capitalistic system. All his evidence and argument finally go back to this point of emphasis. He, therefore, has a main root system theory of crime, to which the nourishing offshoots, such as child labor, bad housing, illiteracy, insecurity, and poverty, are appended and from which they branch. His attempt to present statistical evidence for his claims, on a comparable basis whenever possible, is commendable. That these available statistical data are for the most part unreliable would probably be admitted by competent modern statisticians. Modern statisticians would not only demand more reliable enumerations, records, and estimates but would also insist that the safer way to prove his point would be by the use of control group

[1] *Ibid.*, pp. 420–423.
[2] *Ibid.*, p. 433.
[3] *Ibid.*, p. 447.
[4] *Ibid.*, p. 535.
[5] *Ibid.*, pp. 656–666.

procedure—namely, a comparison of criminals with noncriminals, matched for sex, class, race, age, occupation, education, marital status, and so forth, for traits which are measurable.

While most of the factors to which Bonger calls attention would receive considerable support from many persons today, it is obvious that he was attempting to find the primary or first cause of crime from which the secondary causes spring. In the study of the etiology of a social phenomenon such as crime, it becomes an important question whether researchers should look for underlying causes or direct causes. To illustrate, we will suppose that a wife deserter falls into the hands of bad companions and commits a crime. This companionship factor is apparently very close to the violating behavior. We will suppose further that family discord is the factor immediately behind the desertion, that economic handicaps of the breadwinner are in back of the discord, and that the insecurity of the capitalistic system is in turn partly responsible for the man's economic handicaps. Is it scientifically more sound to search for the more immediate factors than for what is presumed to be the underlying factors? The more remote and indirect the influence of factors on behavior, the more difficult it is to be certain of their effect on behavior of individuals. Hence, it is obvious that such factors as bad housing, long hours of work, moral hazards of children at work, illiteracy, and poverty might not be involved at all in direct causation. They might be so remote in influence as to be unimportant, while the effect of the capitalistic system on criminal behavior would be still more remote and diffuse.

Bonger has confused social conditions and social liabilities of greater or lesser risk for criminality with causes of criminal behavior. Most of the factors he cites as being induced by capitalism are after all class risks and are no more important than other categoric risks for crime, such as area variations, sex, age, and race. There is no more reason to say that illiteracy or bad housing is a cause of crime than there is to say that the male sex, the Negro race, young adulthood, or urbanism are causes of criminal behavior. Such items set the categorical risk for crime in general but do not immediately call out antisocial behavior in individuals.

Goring's Contribution

In the first decade of the twentieth century, Goring continued a research project started in 1901 by Dr. Griffiths, whose general purpose was to indicate whether English convicts, after being subjected to accurate physical measurements, deviated in any appreciable way from the noncriminal population. The investigation as finally carried on and analyzed by Goring included physical measurements, mental examina-

tions, and social-background data on approximately 3,000 prisoners. Goring applied modern statistical methods to the data, using such devices as means, standard deviations, correlations, and probable error. From this painstaking statistical research emanated certain conclusions that had great bearing on the study of the etiology of crime.

Goring was unable to discover the existence of a physical type of criminal such as had been described by Lombroso and his followers.[1] However, English convicts, with the exception of those convicted for fraud and forgery, were found to be markedly inferior to the general population in stature and weight. Prisoners convicted of crimes of violence were found to be above the average of the general population in degree of strength and constitutional soundness. The thieves and burglars, who were said to comprise 90 per cent of the criminal population of England at the time, not only were found to be inferior to the general population in stature and weight but were also discovered to be puny in body build as compared with other offenders and general population.[2] In interpreting the meaning of the physical inferiority of criminals for the causation of crime, Goring felt that such factors as inferior stature and weight must act selectively to shunt persons possessing them the more readily into crime and criminal pursuits, just as height and weight "exert considerable selective influence in workaday life." Such factors also very probably had something to do with individuals' liability to arrest and conviction.[3]

Goring called attention to the fact that age is a selective factor in crime and that postadolescent ages and young-adult ages constitute the period of greatest liability to crime—a liability in excess of the expected proportion in this age group in the general population. Goring assumed that this greater liability to crime in the postadolescent-young-adult age period should be explained by a conjunction of opportunity to commit crime with the appearance of a criminal predisposition rather than by special environmental influences associated with age.[4]

On the other hand, Goring contended from the evidence of partial correlation that "alcoholism, epilepsy and, probably, sexual profligacy and insanity also, in their relation to crime are accidental associations, depending upon a primary high degree of relationship between defective intelligence and crime." Defective intelligence is the main mental factor which Goring found important in the etiology of crime. His statistical evidence, however, indicated that defective physique and defective intelligence were variables that were independent of each other.[5]

[1] GORING, CHARLES, *The English Convict*, p. 173, London, 1913.
[2] *Ibid.*, p. 200.
[3] *Ibid.*, pp. 196–197.
[4] *Ibid.*, p. 212.
[5] *Ibid.*, p. 263.

Through the use of prediction formulas, Goring came to the conclusion that "crime in this country (England) is only to a trifling extent the product of social inequality of adverse environment, or of other manifestations of what may be comprehensively termed 'the force of circumstances'."[1] From a correlation of criminality of convicts with the presence and absence of parental and fraternal criminality, he arrived at the conclusion that heredity of criminal tendency is very important in the etiology of crime. From additional social-background data, likewise treated statistically, he eliminated the possibility of the operation of the process of inoculation or contagion in the family situation in producing crime, thereby corroborating his contention that crime is hereditarily determined.[2]

With Goring's conclusions about the nonexistence of a definite physical type of criminal and the existence of certain physical inferiorities in height and weight as well as general puniness of English convicts, we can have no quarrel. For these conclusions seem to be based on actual quantitative measurements, and the statistical procedures used to analyze these data appear to be adequate. Since the factor of physical inferiority is merely claimed to be selective in influence, there is no reason to suppose that offenders sentenced to prisons must in all times and places show a deficiency in physique as compared with the general population. Even if a differential in physique of criminals as against noncriminals could be substantiated universally, it is difficult to understand how this factor could have more than a selective connection with crime in general, probably not so much as other actuarial liabilities or risks for crime, such as age, sex, and social class. We still have the problem as to why and how persons in somewhat higher crime-risk categories actually become offenders. Consequently, it is difficult to see how such a factor as deficiency in physique can be used as a causative factor in the etiology of crime. Finally, there is still the possibility that in many instances physical inferiority is a result of a criminal career rather than a predisposing liability to crime.

His conclusion that weak-mindedness is an important factor in the etiology of crime is considerably exaggerated, even admitting that his data and estimates were bona fide. The point is that Goring had no measurable gauge of the intelligence level of prisoners or the general population, since he used merely unstandardized and inaccurate judgments of physicians as to the mental capacity of the convicts rather than standardized intelligence tests, which had hardly come into existence at the time.

[1] *Ibid.*, p. 288.
[2] *Ibid.*, pp. 346–354, 364–369.

We can concur with Goring that age is a risk factor in crime but it is difficult to support his contention that the exaggerated concentration of offenders in the youthful ages in excess of the expected concentration from the age distribution of the general population is indicative of inheritance of a criminal predisposition toward crime rather than societal or situational pressures.

His elimination of the environmental forces of circumstance and the factor of social contagion and his retention of the factor of heredity in the determination of criminality represent conclusions based on very unreliable, inadequate, and unconfirmed social-background information in the prisoners' interview records. As a matter of fact, Goring had very limited appreciation and understanding of environmental or situational factors related to behavior. He merely took certain reported environmental conditions that older criminologists had associated with crime, such as nationality, occupation, education, family size, family prosperity, alcoholism, order of birth, and maternal authority (meaning age of subject at time of mother's death), and employed statistical devices and assumptions all out of proportion to the value and character of his background facts.

This latter criticism holds true for his statistical manipulation of the background data on reported or claimed criminality of parents and siblings. His method of eliminating the factor of social contagion in favor of the factor of heredity is nothing short of statistical trickery.

Goring's work therefore is more of a landmark of an effort to apply the mathematical procedures and assumptions of the developing field of statistics to a sample of the English criminal population than a practical contribution to the etiology of criminal behavior.

The Pioneer Work of Healy

As a result of his research work at the Juvenile Psychopathic Institute of Chicago between 1909 and 1914, William Healy made an epochal contribution to the study of the etiology of crime. His method of study was the individual-case method, which had not been widely or effectively used up to that time for the analysis of causative factors in delinquency cases. As a matter of fact, Healy did much to perfect, amplify, and objectify the case-study method of behavior research. He attempted to procure pertinent, reliable, and detailed information on each juvenile offender from interviews with the offenders and their relatives, from investigations of social-background facts, and from medical and psychological examinations. In regard to the latter type of examination, it should be noted that Healy used and developed several psychometric tests to gauge the intelligence and special abilities of the individual cases. He looked further and more fully into the mental life of offenders than

anyone previously had done or had thought of doing. And he looked deeper and more adequately into the family and environmental conditions of the individual than any criminologist had done heretofore.[1]

He contended that influences, in order to be causative factors, must first affect mental life, which in turn affects behavior, and that the study of the mental life of the offender is the "straightforward way of discriminating most causal factors."[2] He found the facts from detailed case studies "too much" for the extant theories of crime causation.[3]

In making a statistical compilation of the causative factors found to be operative in 823 repeated juvenile offenders, it appeared that in every case there were one major and, on an average, two and one-half minor causative factors, or a total of 3.5 causative factors per case. Causative factors were not only multiple but also varied in different combinations in individual cases. From his statistical summary of the causative factors in the 823 cases, one notes that the factors classified under mental abnormalities and pecularities lead the list, while those grouped under defective home conditions, defects of heredity, bad companions, and abnormal physical conditions are the second, third, fourth, and fifth most prevalent. Biological and mental factors greatly outnumber the situational or social factors both as main factors and as minor factors.[4]

Healy was unable to substantiate the direct inheritance of criminal tendencies in a special study of 668 cases on which he thought he had adequate data. In only 15 of these 668 cases was there a suspicion of predisposition, but "in every one of these, however, predominant factors other than mere inheritance of criminalistic impulses could be made out."[5] He was evidently unimpressed by the few instances of physical "stigmata of degeneracy" he found in 133 cases out of a total of 1,000 examined. Each of the 133 averaged 1.5 stigmata per case.[6]

Causative factors must be qualitatively abstracted or selected from the mass of data in a case study by someone who is doing the factorizing. In some measure, if not in large part, the causative factors depend on the analyst's point of view as to what he thinks carries more or less weight and as to what factors he sees or overlooks in the first place as well as on the point of view of the persons collecting data from interviews. Consequently, the statistical enumeration of causative factors as found in Healy's early study reflects his emphasis at that time, which apparently

[1] HEALY, WILLIAM, *The Individual Delinquent*, pp. 33–125, Boston, 1915.
[2] *Ibid.*, pp. 26–29, 163.
[3] *Ibid.*, p. 16.
[4] *Ibid.*, pp. 130–138; see the ranking and grouping of Healy's statistical findings in WALTER C. RECKLESS and MAPHEUS SMITH, *Juvenile Delinquency*, pp. 196–200, New York, 1932.
[5] HEALY, *op. cit.*, p. 154.
[6] *Ibid.*, p. 146.

gave more weight to mental than to situational factors. Nevertheless, the case-study method as developed by Healy clearly represents a way to relate factors in individual instances to behavior.

Apart from the limitations of the case-study method and the initial use of this method, Healy's pioneer work suffers from validation according to a statistical control group. In any factor analysis, it is always important to discover whether the factors found operating or present in delinquency cases are measurably different from those in nondelinquent cases, matched by age, sex, race, class, and several other circumstances and conditions. In other words, mere summarization of findings from a delinquency sample does not tell us that we have discovered anything peculiarly valid for or characteristic of that sample. It is not enough to point out that such and such per cent of a sample of delinquency cases shows factors of mental abnormality or defective family discipline, without knowing whether more or less proportions of such factors appear in comparable nondelinquent cases. The most recent work of Healy attempted to surmount this limitation of unvalidated findings from a mere sample of delinquent subjects.[1] In this work he attempted to compare delinquent subjects with their nondelinquent siblings of nearest age by differential factor analysis. His findings, many of which are cited in Chaps. XI and XII, show marked differences between the two sets of children.

The Case Method

The two principal methods of research applicable to the study of criminals and criminal behavior are the case method and the statistical method. The values and limitations of both methods of investigation need to be rehearsed.

Unquestionably, the case study makes it possible to gather pertinent information on individual offenders into a totality which can show the operation of various factors. The greater the amount of information accumulated, the greater is the likelihood that the data in a case study will reveal the operation of factors. But so far no short cuts to an ample case study have been found. The information on cases that merely have been run through the routine of a clinical setup—say, a child-guidance clinic or a diagnostic clinic for classification and treatment of offenders in penal institutions—is usually not sufficient for adequate explanation of behavior. Cases need to be studied from a research point of view, not limited by a case load or agency routine, and with the idea of exhausting all the possible avenues of pertinent information, in order to be most usable in the search for causative factors.

[1] Healy, William, and Augusta F. Bronner, *New Light on Delinquency and Its Treatment*, New Haven, 1936.

A review of the published case studies would show a great variety of emphases in the collection and assembling of case data. None of them would be considered adequate for the analysis of causative factors by representatives of the fields that have contributed to the etiology of crime. Consequently, any pronouncements on the etiology of criminal behavior from present case studies, although intensively worked from the research point of view, would be criticized for their shortcomings.

If advance is to be made in the study of causative factors of crime through the case method, it will be necessary to have cases studied from all sides and all points of view, in order to approach agreement on the adequacy of information, in the first place, and to overcome one-sidedness of emphasis and lack of thoroughness, in the second place.

After this condition is met, it will still become necessary to establish agreement as to what are the causative factors in each case and as to what constitutes causative factors. The mere interpretation of a case by one case analyst is not sufficient. Rather, the agreed-upon findings of several case reviewers, representing the different approaches and disciplines, would be the safer procedure.

The search for causes in adequately collected and adequately analyzed case studies will undoubtedly confirm the now widely accepted claim that causative factors are multiple, *i.e.*, that there will generally be more than one causative factor in each case. The statistical summary of Healy's original study of cases in Chicago (1909–1914) indicated this. On an average, Healy found 3.5 factors per case. Using similar methods on English juvenile delinquents, Burt, on the other hand, found slightly more than 9 factors per case.[1] Burt eliminated the hereditary factors from this summary enumeration, since he felt that they operated through already counted physical and psychological traits. If we eliminate the defects of heredity from Healy's summary, the number of causative factors per case is about three.[2] Consequently, Burt analyzed out of his cases approximately three times as many causative factors as found by Healy.

It is strongly suspected that the number of causative factors found in cases reflects the analyst's ideas as to what constitutes the nature of causative factors. There is no reason to believe that the number of causative factors in all cases is a constant but, as has been said, the number depends on what the analyst of cases considers to be operational. Hence, it will become necessary to find a way to agree on what constitutes causative factors. Future research will have to shed light on this problem. However, certain principles can be tentatively set forth concerning

[1] BURT, CYRIL, *The Young Delinquent*, New York, 1925.
[2] See RECKLESS and SMITH, *op. cit.*, pp. 200–202.

the nature and operation of causative factors of delinquent and criminal behavior as revealed by case studies.

Selection of Causative Factors in Case Analysis

In the first place, causative factors should be direct and fairly immediate in their effect on behavior or the sequence of events leading up to delinquent behavior. In other words, they should not be remote or indirect in their relation to social behavior which is to be explained.

Secondly, causative factors should have an obvious, detectable, and demonstrable bearing on behavior. Their operational effect should be visibly indicated and substantiated by the information in the case record and should not be unwarrantedly inferred or imputed.

Thirdly, all bad conditions present in a case, physical, mental, or social, are not necessarily causative factors. To illustrate, a delinquent can be feeble-minded, or can have carious teeth or a clubfoot, or can have an alcoholic father without these conditions having a direct bearing on his delinquent behavior.

Fourthly, an individual trait of mind or body, innate or acquired, in, of, and by itself is never a causative factor, but a person possessing such and such an individual trait—say, feeble-mindedness, epilepsy, deformed arm, or emotional instability—in a certain social situation may act in antisocial ways.[1] If this is not so, then all feeble-minded persons, all epileptics, all psychotics, all postencephalitic cases, all emotionally unbalanced, all deformed persons would be delinquents, which, of course, is not true. In other words, there is no necessary inevitability between possessing a given physical or mental trait and eventual criminality. No matter how strongly it is felt that a given trait bends a person toward criminal or antisocial behavior, a determining or conditioning social situation is needed to call out this, that, or the other kind of behavior from a possessor of an abnormal trait. The same principle holds true, no matter whether the person possesses one or two or more detectable abnormal traits.

Conversely and fifthly, it is necessary to admit that persons can become criminals or act in criminal ways just from social circumstances, *i.e.*, without possessing one or more abnormal individual traits. Even the classical criminologists allowed room in their classification of criminal types for occasional criminals and criminals of circumstance. This principle does not mean to imply that social situations operate independent of the personality in inducing antisocial behavior, but merely means to recite that persons do not have to possess abnormal traits in order to be criminals.

[1] Sutherland, E. H., *Criminology*, pp. 111–128, Philadelphia, 1924.

In the sixth place, it should be understood that what is ostensibly the same social environment is really not the same for any two persons living in it. Otherwise, all the children in certain families or situations would be delinquent. Owing largely to historic accidents, experiential conditions, and personal differences, the *X* family, the *Y* neighborhood, the *Z* pool hall, the *A* school, the *B* policeman, the *C* companion are not the same things for any two persons responding to them. As a matter of fact, a social environment is what the person responds to and the way he responds to it. Consequently, it is usually a safe procedure in case-study research to make soundings for the person's own outlook on his environment and his own attitudes toward the various objects in this environment, as a check on his real social world and the elements within it that have induced his delinquent behavior.[1]

Lastly, the truly apparent causative factors reenforce one another in producing a cumulative effect on behavior. In other words, they form a "vicious circle" of influence, which gains in momentum and force the longer the combination continues, or, to take another simile, they produce a stronger and stronger chain of influence the longer they operate together.[2]

Additional Uses of Case Studies

If in the future it becomes clear that causative factors cannot be reliably established by the qualitative analysis of cases, there will still be a very real use for case studies in the study of crime. They will still provide important clues about the functioning of individuals in social situations, albeit these clues or hunches would need to be substantiated or verified by methods more reliable and standard than qualitative analysis.

Apart from their role in factor analysis, case studies can provide material for the description of the patterning processes in behavior, *i.e.*, for the study of maturation in crime. The study of the process by which individuals develop delinquency patterns or criminal careers is in many respects more important than causative factor analysis, especially if it reveals the typical ways by which individuals get processed in delinquency and crime. While such research does not tell why human beings become criminal, it can describe how they become offenders.

[1] The importance of getting the subject's own story and the attitudinal (subjective) data as a means of discovering the actual world of the individual is called attention to by Clifford R. Shaw in *The Jack-Roller*, pp. 1–3, Chicago, 1930, and by Walter C. Reckless in "Suggestions for the Study of Problem Children," *Journal of Educational Sociology*, pp. 158–159, November, 1928.

[2] These seven principles of causative factors have been revamped from an earlier statement by the author. See Reckless and Smith, *op. cit.*, pp. 207–220, New York, 1932.

Use of Statistics in Factorizing

Assuming that the information in case records is adequately and consistently collected, the statistical method can be of service in enumerating, comparing, and validating the findings. There are data in case records, given in numerical or objective form, which make for ready enumeration and comparison. But there is a host of very revealing subjective data in case records which present obvious problems of description, counting, and comparison. The problem here is to find mensurable units for statistical analysis of subjective and qualitative data. Slawson had this in mind when he mentioned that, for example, "the factor, parental disharmony, in all probability a very important item, cannot be evaluated with reference to causal potency before it is sufficiently objectified on some scale of measurement which would make possible comparisons in this familial trait between delinquents and the general population."[1] Considerable progress has been made in reducing qualitative items of social background, experience, and attitudes to a form that is susceptible of statistical handling.[2]

[1] Slawson, John, "Causal Relations in Delinquency Research," *Publications of the American Sociological Society*, Vol. 22, p. 170.

[2] It is impossible here to trace the progress in the use of questionnaires, rating scales, and tests. But some of the pertinent studies in the measurement of subjective items can be mentioned. The work of L. L. Thurstone in the measurement of social attitudes should be mentioned. See, for example, "Attitudes Can Be Measured," *American Journal of Sociology*, Vol. 33, pp. 529–554, 1928; (with E. J. Chave), *The Measurement of Attitude*, Chicago, 1929; (with T. G. Thurstone), "A Neurotic Inventory," *Journal of Social Psychology*, Vol. 1, pp. 3–30, 1930. The psychoneurotic inventory was found by Margaret E. Murray to give a fairly reliable rating of personal maladjustment (see "Validation of Items of the Psychoneurotic Inventory," *Journal of Juvenile Research*, Vol. 16, pp. 213–230, 1932). Cavan found that questionnaires administered to eighth-grade public school children had a high reliability when rerun for answer agreement in personal ratings and checked with siblings and mothers on family-background information. (See Cavan, Ruth Shonle, "The Questionnaire in a Sociological Research Project," *American Journal of Sociology*, Vol. 38, pp. 721–727, 1933.) Mapheus Smith found a fairly high per cent of stability for responses when the questionnaires were administered a second time after a lapse of four months. (See "A Note on Stability in Questionnaire Response," *American Journal of Sociology*, Vol. 38, pp. 713–720, 1933.) Stouffer discovered that autobiographies of one's experiences and attitudes toward liquor and prohibition, when rated by judges for expressed favorableness or unfavorableness toward prohibition laws, correlated highly with the scores of the same subjects on a test of attitudes toward prohibition. (See "An Experimental Comparison of a Statistical and Case History Method of Studying Social Attitudes," *Publications of the American Sociological Society*, Vol. 25, no. 2, pp. 154–156, May, 1931.) Stouffer amplified a technique for handling data statistically when independent variables fall into qualitative groupings or subclasses and are not expressible on a quantitative scale of values. ("A Technique for Analyzing Data Classified in Non-Quantitative Groups," *American Journal of Sociology*, Vol. 39,

The indications are that questionnaires and rating scales should be substituted for the ordinary case material of the oral (interview) or written (life-history) type, if subjective and attitudinal case data on personality, experience, and background are to be manipulated statistically. The knowledge and use of personal inventories by questionnaires or rating scales have advanced tremendously. When properly prepared and administered, they can measure with considerable reliability the degree or amount of a behavior trait, social condition, or attitude as revealed by individuals. A questionnaire or rating scale, used in place of the interviews, social investigations, and life histories which are necessary for making a case study, enables ready statistical comparison between behavior cases and matched nonbehavior cases (a control group) on important subjective items which in the usual qualitative verbal or written form in the ordinary case study make statistical handling at best very difficult.

Moreover, the personal inventory or rating scale has decided advantages over the case study in actual administration. It is easier to administer an inventory to a subject than to make an adequate study of him. And the information collected through the inventory can be obtained at a very much smaller time cost and in a more standard way than that collected by interviews, investigations, and life histories.

With the use of inventories to gauge reliably important subjective data, together with the use of much originally given objective and quantitative data in case records, the search for factors related to delinquency and crime will assume new proportions and directions. Instead

pp. 180–193, 1933.) Laune found that what represented an inmate's subjective hunch after release could be reliably broken down into component determining factors and an indicative short questionnaire could be used to score a man's probable outcome—a score reliably related to the factor score, which was related reliably to the initial hunch score, which was related reliably to scores obtained from an objective factor analysis by another method. (See LAUNE, FERRIS F., *Predicting Criminality*, Northwestern University, Evanston and Chicago, 1936.) Baker and Traphagen developed a scale of behavior factors which reduces many of the subjective items obtained in a case study to a reliable score or rating and validated the instrument to show reliable differences on a sample of behavior and nonbehavior children's cases in Detroit. (See *The Diagnosis and Treatment of Behavior-Problems*, New York, 1936. Copies of their "Case Record Based on The Detroit Scale of Behavior Factors" may be procured from The Macmillan Company, New York City.) Burgess and Cottrell were able to reduce subjective data on social background and personal history to a scale of values in questionnaires filled out by married couples, together with their ratings of the happiness or unhappiness of their own marriages, to discriminating scores of the degree of marital adjustment, so that answers on certain background questions found to be clearly related to high or low marital adjustment scores could be rated and condensed to a score which yielded total prediction scores indicating degrees of happy or unhappy outcome of marriage. (See "The Prediction of Adjustment in Marriage," *American Sociological Review*, Vol. 1, pp. 737–751, 1936.)

of a hodgepodge of unstandardized and uncomparable findings, such as now exists, the accumulation of a body of standard, comparable information will be possible. One would be able to tell what traits, experiences, or conditions in what degrees are or are not related to delinquent and criminal behavior by all the tests of comparison and validation. But the statistical approach to factor analysis of human behavior will probably never get at causative factors of behavior; as has been stated, it will unearth primarily the factors related to delinquency and crime. In some respects, this seeming inability of the statistical method to tell why and how individuals become antisocial, *i.e.*, to ferret out causative factors, might be considered as a definite shortcoming. But the question may well be raised as to whether causative factor analysis, depending on qualitative interpretation of case records, will ever be able to establish acceptable and valid findings.

On the other hand, the statistical analysis of factors related to criminal outcome has a predictive value that causative factor analysis through case studies does not have. It can formulate the crime risk of persons who possess certain combinations of factors known to be related very much or very little to criminal behavior. In fact, an important beginning has already been made in the application of prediction methods to outcome in criminality.[1]

As will become clearer from the review of the outstanding contributions to the study of crime causation presented in the next four chapters, criminology may have to abandon the search for causative factors as a rather hopeless task and to content itself with the possibility of establishing the importance or unimportance of factors related in varying degrees to delinquent and criminal behavior, factors which, while not explaining why individuals become criminal, will indicate the risk or liability for becoming criminal.

[1] BURGESS, E. W., in ANDREW A. BRUCE, *et al.*, *The Workings of the Indeterminate-Sentence Law and the Parole System in Illinois*, pp. 221–249, Springfield, Ill., 1928; GEORGE B. VOLD, *Prediction Methods and Parole*, Hanover, N. H., 1931; ELIO D. MONACHESI, *Prediction Factors in Probation*, Hanover, N. H., 1932; CLARK TIBBITTS, "Success or Failure on Parole Can Be Predicted," *Journal of Criminal Law and Criminology*, Vol. 22, pp. 11–50, 1931; FERRIS F. LAUNE, *Predicting Criminality*, Northwestern University, Evanston and Chicago, 1936; SHELDON and ELEANOR T. GLUECK, *Five Hundred Criminal Careers*, pp. 280–296, New York, 1930; SHELDON and ELEANOR T. GLUECK, *Five Hundred Delinquent Women*, pp. 284–298, New York, 1934.

CHAPTER X

BIOLOGICAL FACTORS IN CAUSATION OF CRIME

After the rise into prominence of that branch of biology dealing with the laws of heredity and the widespread development of the applied science of eugenics, the factor of heredity in human behavior and social problems was given great emphasis not only by scientists but also by laymen. It would probably not be far wrong to say that, of all the popular explanations of social behavior, individual traits, and social problems current in modern society, the hereditary explanation is dominant. One reason why the hereditary explanation is appealing is that it seems so very plausible. Nevertheless, there is probably no claim that is more difficult to substantiate than one that contends that such and such a trait or condition is inherited.

All sorts of contentions have been made as to the relation of heredity to criminal behavior: born criminal types, inheritance of criminal instincts, inheritance of specific criminal patterns, inheritance of criminal tendency or predisposition. For the most part, the notion that there are born criminal types or that specific criminal patterns are inherited has given way to the notion that some individuals inherit a proneness to criminality that is not specific.

Many different types of studies have been made to establish the hereditary factor in crime. We have already reviewed Lombroso's attempt to validate the conception of a born criminal type by the qualitative enumeration of physical and mental anomalies and also Goring's conclusion that criminals do not possess physical anomalies as insisted upon by Lombroso. However, in brushing aside the operational potency of environmental factors, Goring arrived at the position that crime must be explained by the heredity of weak-mindedness, as well as by the inheritance of a predisposition to crime.

Notorious Degenerate Families

Several studies have attempted to substantiate the heredity factor in criminality by investigating the descendants of notorious problem families as to their physical, mental, and social status. The first of these monographic family studies, which set the pattern for several more, was made by Dugale on the Jukes family, an American white family of the early eighteenth century backwoods settlement. Pauperism, illegitimacy, prostitution, intemperance, and criminality were

found to be rampant among the descendants of this family. Later eugenic and biological interpretations of the Jukes record placed more emphasis on the hereditary determination of the problems of this family and such problems generally than did the author himself. Dugale's general conclusions from his study of the Jukes were concerned with the then growing controversy as to the relative importance of heredity and environment. He contended that (1) heredity was the preponderating factor in careers of people where the constitution is modified or organically weak and that physical and mental capacity is limited by heredity; (2) that where conduct depends on knowledge, environment has more influence than heredity has and that the use to which capacity is put depends on environment and training; and (3) that heredity tends to produce an environment which perpetuates it (the licentious parent makes an example for the child to follow).[1]

A generation later, students of eugenics, particularly in America, saw the possibilities of exploring family descendants with a view toward proving that dysgenic traits, such as feeble-mindedness, alcoholism, prostitution, criminality, insanity, and pauperism, were transmitted biologically in family strains. Goddard's study of the Kallikak family is perhaps the most widely known of these eugenic researches. Martin Kallikak, Sr., joined the Revolutionary army and met a presumably feeble-minded girl at a tavern. From this association issued an illegitimate son, Martin, and from him 480 traceable descendants. Of these, 143 were found to be feeble-minded; 46, normal; the rest, doubtful. Of the 480 descendants, 36 were illegitimate; 33, immoral (mostly prostitutes); 24, confirmed alcoholics; 3, epileptics; 82 died in infancy; 3 were criminal; and 8 kept houses of ill fame,[2] while from the descendants of the same father and his normal wife the family record is clear.

The progeny of two men in a small Massachusetts town "have made desolate alcoholic homes which have furnished the State wards for over fifty years, and have required town aid for a longer time."[3] The Hill Folk, to whom reference is made, contained 320 hard drinkers, 28 medium drinkers, 24 persons with criminal tendencies, 10 habitual thieves, 20 adult paupers, 35 state wards, and 8 prostitutes, from among 737 of their members investigated.[4] Several other American as well as European degenerate or defective families have been studied, all of them

[1] DUGALE, R. L., *The Jukes; a Study in Crime, Pauperism, Disease and Heredity*, 4th ed., p. 65, New York, 1884.

[2] GODDARD, HENRY HERBERT, *The Kallikak Family*, pp. 18–19, New York, 1912.

[3] DANIELSON, FLORENCE H., and CHARLES B. DAVENPORT, *The Hill Folk; Report on a Rural Community of Hereditary Defectives*, p. 1, Cold Spring Harbor, Long Island, N. Y., 1912.

[4] *Ibid.*, pp. 17–18.

showing an assortment of problem individuals dangling from the genealogical tree.[1]

It is not always easy in an investigation of living descendants to make certain of feeble-mindedness, mental condition, criminality, pauperism, and alcoholism; much less among the departed members of one or more generations back, whose behavior, condition, and traits must be gathered from family talk, rumor, or family and institutional records of none too trustworthy character. Many inferences and assumptions must be made from inaccurate data in order to designate so-and-so as alcoholic, insane, feeble-minded, or criminal. Yet Goddard defended the validity of such information collected on family members as follows: "In determining the mental condition of people in the earlier generations (that is, as to whether they are feeble-minded or not) one proceeds in the same way as one does to determine the character of a Washington or a Lincoln or any other man of the past."[2]

As far as problems such as pauperism, crime, and prostitution are concerned, the evidence from the studies of defective and degenerate families is not at all conclusive on the hereditary transmission of traits leading to the duplication of behavior problems in successive generations. There is more likelihood that begging, pauperism, prostitution, alcoholism, and thieving are transmitted by a social heritage in the family or community than transmitted through the germ plasm.[3] On the other hand, the notorious degenerate and defective families, which have been the "prize teaching cases" of the eugenists, contained individuals who had lived under conditions of extreme family and community disorganization, which alone would be capable of demoralizing individuals, no matter whether they were normal or abnormal in physical and mental traits. This fact has usually been lost sight of in the biological interpretation of the social records of the descendants of these notorious family cases.

It has been pointed out that, after all, "real" criminality, as contrasted with petty infractions and waywardness, played a truly minor role in the behavior records of the famous families. The percentages of criminality among members of these families have been worked out as follows: Kallikak, 0.3; Rufer, 1; Nam, 1; Markus, 2; Hill Folk, 4; Dack,

[1] Another interesting investigation of a famous degenerate American family of Massachusetts may be found in ARTHUR H. ESTABROOK and CHARLES B. DAVENPORT, *The Nam Family; A Study in Cacogenics*, particularly pp. 65–75, Cold Spring Harbor, Long Island, N. Y., 1912.

[2] GODDARD, *op. cit.*, p. 14.

[3] Harlan W. Gilmore has studied a case of five generations of beggars in a family, indicating how the professional technique and supporting attitudes are passed down socially to the oncoming generation. See "Five Generations of a Begging Family," *American Journal of Sociology*, Vol. 37, pp. 768–780, 1931–1932.

4; Jukes, 6; Zero, 7; Viktoria, 39; Anale, 88.[1] The high percentages in the last two cases, it is contended, are due to the inclusion of minor domestic troubles, insults, and petty infractions in the inventory of crime.

Studies of Criminal Twins

More recently, attempts have been made to demonstrate the biological inheritance of criminality by studying cases of criminal twins. One of the most notable of these attempts is the investigation of Johannes Lange in Bavaria. Combing the local prisons, the records of the Institute for Criminal Biology at Straubing, and the cases of the genealogical department of the German Psychiatric Institute for instances of prisoners who had living twin siblings of the same sex, Lange discovered thirty sets and made separations on the basis of whether the sets were monozygotic or dizygotic and whether or not both twins in a set had prison records. The monozygotic twins are supposed to be identical and to have divided from the same ovum, therefore having the same inheritance. The dizygotic twins are supposed to be nonidentical, to have developed from separately germinated ova, and to represent two individuals of differing inheritance. If twins had both been imprisoned, they were considered concordant; if one had a prison record and one did not, discordant. All sets of twins grew up together, except one set whose members were separated at eight years of age. The following results were found according to combination:

Twins	Concordant	Discordant
Monozygotic	10	3
Dizygotic	2	15

Of the 13 sets of monozygotics, the majority was concordant (both criminal). Of the 17 dizygotics, the majority were discordant. Lange concluded that "as far as crime is concerned, monozygotic twins on the whole react in a definitely similar manner, dizygotic twins behave quite differently. If, therefore, we attach importance to the twin method of investigation, we must admit that so far as the causes of crime are concerned, inherited tendencies play a preponderant part."[2]

Somewhat later, Rosanoff, using a much larger and wider assortment of American twin cases, confirmed Lange's conclusions. Rosanoff's

[1] See Eduard Hapke's note in the *Zeitschrift für die angewandte Psychologie*, Vol. 33, p. 18, where he cites the data evidently taken from Dirksen's article on "Asoziale Familien," *Deutsche Zeitschrift für die öffentliche Gesundheitspflege*, 1924–1925.

[2] Lange, Johannes, *Crime and Destiny*, translated by Charlotte Haldane, p. 46, New York, 1930.

findings from the cases of adult criminality are roughly similar to Lange's. These findings, he insists, "point to a pregerminal or germinal" factor in criminality.[1] It is understood that "both affected" and "one affected"

ENUMERATION AND CLASSIFICATION OF ROSANOFF'S CASES[a]

Types of twins	Adult criminality		Juvenile delinquency		Behavior problems in children	
	Both affected	One affected	Both affected	One affected	Both affected	One affected
Same sex twins—probably monozygotic	25	12	39	3	41	6
Same sex twins—probably dizygotic	5	23	20	5	26	34
Opposite sex twins—dizygotic	1	31	8	32	8	21

[a] Data rearranged from those presented in Rosanoff, Handy, and Rosanoff, *op. cit.*, on p. 928.

in Rosanoff's terminology correspond respectively to "concordant" and "discordant" in Lange's terminology.

One obvious question concerning these criminal-twin studies should be raised. If the investigation were made from the opposite approach, what would the results be? That is, if persons were nonbehavior and noncriminal cases and at the same time had twin siblings, would the dizygotics show a higher proportion of criminality than monozygotics? This contrariwise check on the findings has not been made; yet it would help validate or invalidate the results of the twin investigations.[2]

Looking at the results of Lange's and Rosanoff's researches from the standpoint of statistical occurrence, the proportion of dizygotics who are both affected should be higher than the proportion of the monozygotics where only one is affected, if the theory is to be consistent. If biological determination of destiny is correct, a discordant monozygotic twin set should be impossible, whereas discordant dizygotic sets should be frequent. But the proportion of discordant to concordant monozygotics

[1] ROSANOFF, AARON J., LEVA M. HANDY, and ISABEL AVIS ROSANOFF, "Criminality and Delinquency in Twins," *Journal of Criminal Law and Criminology*, Vol. 24, p. 929, 1934. Rosanoff calls attention to the study of 9 sets of criminal twins by Legras in Holland: four monozygotic and both twins criminal, five dizygotic and only one of the twins criminal. See LEGRAS, A. M., *Psychose en Criminaliteit bij Tweelingen*, University of Utrecht, 1932.

[2] Rosanoff mentions that he has the records of 313 pairs of normal twins gathered for comparative, control-group purposes, but he makes no use of them in his cited study. *Ibid.*, p. 923.

in Lange's data is much higher than the proportion of concordant to discordant dizygotics (3 to 10 against 2 to 15); and the proportion of one affected to both affected adult monozygotics in Rosanoff's series is very much larger, too, than the proportion of both affected to one affected adult dizygotics (12 to 25 against 6 to 54).

Neither Lange nor Rosanoff really eliminated the operation of situational or environmental factors. There is no reason not to suppose that the social environment working in the usual differential ways cannot produce concordancy or discordancy in either monozygotics or dizygotics. Lange used no adequate method or procedure to eliminate the influence of environment; he used merely logical deduction. Says Lange, "If the hereditary make-up had no importance, a comparison between monozygotic and dizygotic pairs of twins ought to show no differences. The agreement between the behavior of monozygotic twins would indicate the importance of heredity. The lack of agreement would throw the stress on environment. Since environmental influences can only be closely similar in the case of those who have grown up together, the importance of environment would be increased if, in comparison with other brothers and sisters, dizygotic twins showed closer agreement as far as crime was concerned."[1]

Rosanoff likewise ruled out situational as well as congenital factors, not by evidence from detailed case studies, but by inference from the occurrence of his cases. He contends that if a disorder, in addition to running through the family strain, regularly occurs in both monozygotic twins and only affects one of the pair of dizygotic twins, "then we have an accumulation of evidence sufficient to establish a pre-germinal (truly hereditary) factor as the sole or principal factor in the causation of the disorder under consideration."[2] This sort of logical procedure is used by Rosanoff to eliminate not only factors of the germinal and foetal period but also of the postnatal period.

While criminality in the family strain is not conclusive evidence for biological inheritance of criminality in descendants, yet criminality in the predecessors should be there (how much and in what ancestors no one knows), in order to complete the logical inference of the inheritance of criminality in monozygotic twins. And it should be there, although perhaps not so abundantly, to account for the criminality of dizygotic twins. If Lange or Rosanoff has data on the criminality of living relatives and ancestors in the case histories, no mention is made of them. Consequently, they assume from the behavior of the offspring that criminal prepotency is in the stock, and then bring forward the posited criminality to explain the offspring.

[1] LANGE, *op. cit.*, p. 42.

[2] ROSANOFF, HANDY, and ROSANOFF, *op. cit.*, p. 924.

The determination of monozygotics is by no means a certainty in mature individuals, in spite of strong physical resemblance. There is reason to believe that the only safe way to determine identical twins is at birth. The possibility is that in some cases, although they are very much alike in appearance and physical measurements, the twins may not really be monozygotic. Furthermore, it is not known definitely whether monozygotic twins should be similar in mental and temperamental traits or whether differences are allowable in these traits. The assumption is that they should be mentally as well as physically similar.

All these critical considerations make it impossible to embrace the conclusions from criminal twin studies to date. But assuming that the scientific shortcomings of twin investigations were satisfactorily adjusted and the conclusion seemed inescapable that criminality was inherited in monozygotic twins, how far could this finding be generalized? To what sorts of cases would the hereditary factor apply? Certainly not to all cases of offenders and to all forms of criminal behavior. The burden would still be on the criminal-twin investigators to show, from specific hereditary background and case histories, the kinds of cases that would be prepotently criminalistic. In such singled-out cases the criminal behavior would have to be due entirely to the hereditary factor, since situational factors could not play a part in the production of their crimes. If the operation of environment is eliminated to show that cases are criminal because of heredity, there is no need of calling upon the environmental factors to awaken the criminal prepotency. If environmental factors are used to assist the hereditary predisposition to unfold, it would seem illogical to suppose that the situational factors should have been eliminated in the first place, to demonstrate the existence of hereditary criminality. Lange does just this: he eliminates the environmental factors in establishing prepotency in his cases and then turns right around and uses environment to bring out criminality.[1] A true hereditary trait does not need externalities to bring it out; it comes out.

Findings on the Hereditary Factor from Case Histories

Information from the case histories of intensively studied offenders has been used to detect the working of the hereditary factor in criminality. Healy's original study of juvenile delinquents in Chicago prior to the World War yielded negative results as to the existence of inherited criminal tendencies. "In the thousand cases which have been reviewed, we have carefully sought evidence of direct inheritance of criminalistic traits as such. However, in no one case of the thousand have we been able to discover evidence of anti-social tendencies in succeeding generations without also finding underlying trouble of a physical or mental

[1] Lange, *op. cit.*, pp. 210–211.

nature, or such striking environmental faults or maladjustments as often develop delinquency in the absence of defective inheritance."[1] On the other hand, Healy found abundant evidence of indirect inheritance, meaning that heredity in determining physical and mental traits in the offspring and in determining in part the conditions of rearing children was indirectly operating to produce delinquency. Out of 668 cases on which Healy had adequate information on the family members and ancestors, only 15 were suspected of containing possible evidence of inherited criminalism. And in these 15 instances, various other factors, which usually produce delinquency anyway, were present. In 44 per cent of the cases, heredity was considered to operate only indirectly.

Burt, who studied English juvenile delinquents according to case-study procedure of Healy, confirmed the latter's general conclusions. Burt found no evidence that led him to suspect that criminality was directly inherited. He, too, discovered that heredity worked through physical and mental traits, which in turn might be related to delinquent behavior.[2]

European criminologists and clinicians of the so-called school of criminal biology are for the most part still greatly impressed with the hereditary predisposition toward crime as one of the outstanding etiological factors. Dr. Adolf Lenz, one of the foremost contributors to the etiological study of crime from the standpoint of criminal biology, contends that the antisocial tendencies and traits of ancestors need to be investigated, since they indicate reduced ability to make social adjustments. The presence of mental disease and ailments, hysteria, epilepsy, neurotic traits, alcoholism, and suicide in the familial and ancestral background is an indication that the individuals of the present generation will have difficulty in making adjustments. Such a background leads to mental disorder, crime, prostitution, vagabondage, quarrelsomeness, willfulness, unsociability, homosexuality, perversities, and drug addiction. The frequency of antisocial outcroppings in the father's and the mother's line has much to do with the potency of criminal predisposition. The individual can escape the consequences of latent predispositions in favorable environments, according to Lenz—environments in which there is no clash between hereditary traits and tendencies and the scheme of life of the individual. Lenz claims that, instead of criminal inclination being inherited, it is the predisposition to maladjustment that is inherited. This predisposition induces crime only where

[1] SPAULDING, EDITH R., and WILLIAM HEALY, "Inheritance as a Factor in Criminality," *Physical Bases of Crime; a Symposium* (papers and discussions before the 38th annual meeting of the American Academy of Medicine, Minneapolis, June 14, 1913), American Academy of Medicine Press, p. 19, Easton, Pa., 1914.

[2] BURT, CYRIL, *The Young Delinquent*, New York, 1925.

the pressure of the life struggle on the individual is in evidence. Ancestors, in Lenz's thinking, do not have to be criminal themselves to impart a predisposition to crime; all the other noncriminal antisocial traits are sufficient to show that a prepotent inadequacy is being passed down.[1] It should be noted that Lenz is not a rabid hereditarian. In his clinical researches, he uses the information on the hereditary background of offenders as merely one small part of the investigation of the total personality in the environmental situation.[2] Lenz apparently makes the predisposition to crime coterminous with constitutional inadequacy or reduced ability to make social adjustments. It takes a very elastic and perhaps unwarranted conception of hereditary traits and tendencies to assume that existence of behavior problems in the parental line is prima facie evidence for the existence of a predisposing inadequacy in the offspring.

The Criminal Constitution

Many important criminologists, particularly in Europe, cling tenaciously to the notion that "real" criminals, especially the recidivists, possess a physical and mental make-up that lowers their ability to live a law-abiding existence. They contend that the inferiorities of the constitution are derived in large part from heredity, but they do not insist that there is a specific criminal constitution, always possessing a definite set of physical and mental traits in combination. Greatly varying combinations of physical and mental characteristics and inferiorities are used to define and diagnose the constitutional criminal. This is essentially the view held by the great Belgian criminologist, Dr. Louis Vervaeck.

Habitual criminals have in general an inferior biological, physical and mental constitution. This inferiority renders them little fitted to live a regular life, to

[1] Lenz, Adolph, "Die Bedeutung der Kriminalbiologie," *Archiv für Kriminalbiologie*, Vol. 88, pp. 222–224, 1931.

[2] *Ibid.*, p. 219. It should be born in mind that we have merely rehearsed Lenz's position on the hereditary determination of maladjustment. His approach to the study of individual offenders from the standpoint of criminal biology embraces a study of the total personality, in which evidence for a predisposition toward maladjustment might constitute only one small part. If one consults his published case studies of murderers, one finds that they include a wide range of data on the life history of the offender, family background, experience in prison, physical examination, and psychiatric diagnosis (especially to determine the presence of any pathological conditions); data and observations on body build, psychic disposition, mentality, and emotional traits; analysis of the offender's personality as a type and of the criminal deed in terms of the knowledge of the personality; and finally a statement on prognosis. See Lenz, Adolph, *et al.*, *Mörder; die Untersuchung der Persönalichkeit als Beitrag zur Kriminalbiologischen Kauistik und Methodik*, pp. 3–33, Graz, 1931. Also see his earlier theoretical statement, *Grundriss der Kriminalbiologie*, Vienna, 1927.

control their impulses and emotions, to resist temptations and suggestions of their milieu; they are predisposed or given to crime and infractions by their hereditary and acquired blemishes. In reality, there is no one specific or unique type of criminal but rather a series of biologically abnormal types and manifestations of diverse maladies and degeneracies common to man.[1]

The constitutional character of criminals, according to Vervaeck, is bound up with temperament, shape of body, regular or harmonic physical development, hereditary tendencies, congenital conditions, infant diseases, and the function of the ductless glands (particularly the thyroid). The constitutional inferiority of criminals is supposed to show itself, among other things, in disharmonic or irregular body structure, frequence of morphological stigmata of rachitis (rickets), insufficient function of ductless glands, and frequence and duration of maladies during incarceration.[2]

Elsewhere Vervaeck, in reviewing the indications of unimprovable offenders, lists the indexes for the existence of constitutional inferiority among criminals: the prevalence of psychopathic and social limitations in ancestors of the first degree of relationship; the infections of sperm or germ of parents by alcohol, syphilis, or tuberculosis; the sensitiveness to infections and poisons, and the instability of emotional life; schizothyme and cyclothyme temperament; strongly marked disharmonies of physical growth; unregulated bodily functions; disturbed nervous system, and so forth.[3] He estimates that 90 per cent of the worst recidivists (the real criminals to most European criminologists) are biologically abnormal, with strong psychological, characterological, emotional, and moral defects.[4]

The criminal constitution not only serves to distinguish habitual criminals from occasional offenders in the research and diagnostic work of European criminologists, but the notion of the criminal constitution also has become translated into the penal codes of several European countries by way of prescribing measures for the protective detention of prisoners who show gross signs of degeneracy, abnormality, and defectiveness.

Most of the important criminologists in Italy still maintain the principal tenets of Lombroso and have not moved in their thinking very far from the master. As disciples of the master, they may be called neo-

[1] VERVAECK, LOUIS, *Syllabus du cours d'anthropologie criminelle donné à la prison de Forest*, p. 57, Brussels, 1926.

[2] *Ibid.*, pp. 61–63.

[3] VERVAECK, LOUIS, "Gibt es Anhaltspunkte für die Unverbesserlichkeit des Verbrechers?", *Monatsschrift für Kriminalpsychologie und Strafrechtsreform*, Vol. 25, pp. 446–447, 1934.

[4] *Ibid.*, pp. 447, 449.

Lombrosians but in reality they have no more claim to the label than have other European criminologists who place the emphasis on the constitutional factors in the study of criminals. Monachesi's review of the work of the important present-day criminologists in Italy, Pende, DiTullio, Aisenscitat, Michel, Ottolenghi, and others, is very illuminating.

By constitution, Pende means the morphological, physiological and psychological characteristics of the individual that are due to specific properties of the components of his heredity. These components, or factors, in combination determine the body type of the individual, as well as the individual's capacity to adapt and react to the stimuli furnished by the environment.

Works by Carrara, Ottolenghi, DiTullio, DeSanctis, Morselli, Marchiafava, Saparito and Aisenscitat represent attempts to base criminal activity upon one abnormality, or a combination of abnormalities, in the constitution of the offender. These scholars, taking their cue from Pende, have labored to create the concept of the "delinquent constitution." Their researches have centered upon two problems: (1) factors responsible for the original abnormalities in the personality of the individual; and (2) factors in the external environment which, operating on the delinquent constitution, result in criminal behavior.

DiTullio, a student of Ottolenghi, is convinced that the "real" criminal, in contrast to the occasional offender, is in the majority of cases an individual whose heredity is either degenerate or deviates in some manner from the normal. His conclusions are based upon the examination of several thousand criminals, most of whom he examined at the Regina Coeli prison at Rome. In the matter of the relation between alcoholism and criminality, DiTullio found that out of 548 criminals with alcoholic tendencies, 329 had alcoholic parents and 20 had psychopathic parents. In this connection he points out that many of these 548 individuals were occasional offenders and not "real" criminals, thus explaining why the remaining 199 did not have defective heredity. He finds practically the same thing in the case of juvenile delinquents, criminal homosexuals, tubercular criminals, confirmed thieves, and murderers. Noteworthy is the fact that of 400 murderers examined by DiTullio *all* of them had defective heredity. This rather doubtful result is followed by the remarkable contention that all of the 300 habitual criminals examined by him had defective heredity. DiTullio goes even further and states that he has in recent years never examined a "real" delinquent who was not burdened with defective or degenerate heredity.

Jacob Aisenscitat conducted his researches in several institutions for neglected and delinquent children. Of 1,680 neglected children, he found 1,400 abnormal. In examining 50 of these suffering from marked abnormalities, 44 of them were offspring of abnormal parents. Of 570 sons and daughters of convicted criminals, he found that 470 suffered from some physical, psychological, or sensory defect. A detailed study of 52 of these individuals resulted in demonstrating that 51 of them had defective heredity in the form of insanity, tuberculosis, alcoholism, delinquency, prostitution, and vagrancy.

Michel, in a study of 249 felons, found that 177 were offspring of parents who suffered from mental and nervous diseases, alcoholism, or criminality. He points

out that such parental conditions give rise to offspring unable to cope with the exigencies of normal social life.

Ottolenghi, on the basis of several thousand examinations of criminals, is of the opinion that the "real" criminal is an individual distinct and separate from the rest of humanity and is the creation of a negative biological and social selection. An ardent student and faithful disciple of Lombroso, Ottolenghi has conducted numerous investigations whose purpose has been to support the teachings of his master.

The fervent pre-occupation of the modern Italian criminologist with the biology of crime may be explained in part by the fact that the majority of them are doctors of medicine. In addition, the influence of the work of Lombroso has been tremendous in giving direction to research in Italy. The writer was amazed by the intense loyalty to and reverence for Lombroso displayed by students of crime in Italy.[1]

The criticisms of the conception of the criminal constitution have largely been indicated in the criticisms of Lombroso's findings. The abnormalities of mind and body, which real criminals are supposed to possess, represent merely impressions, seldom obtained by scientific precision. The clinicians are prepared in advance to find symptoms in the offenders they observe. They do not possess any standard measurable norms by which they can compare the physical and mental traits of observed criminals with the noncriminal population of the same age, sex, class, and race. As Monachesi has pointed out, "the questions raised by Lombroso's work still remain unanswered and they are doomed to remain in that state until we know the characteristics of the so-called normal population."[2]

If the mythical proportions and prepotency, as well as the stigmata of type, inherent in the conception of the constitution of the "real" criminal, are discarded in favor of the more realistic comparisons of physical and personality traits of delinquents, there is strong suspicion that the former are somewhat more heavily laden with physical shortcomings, developmental blemishes, personality deviations, and pernicious habits than the latter. In comparing 105 delinquents with 105 nondelinquent siblings of the same sex and nearest age by the most approved methods of case study, Healy found that a disproportionately larger number of bad diagnostic counts were scored against the delinquents than against the nondelinquents. While direct and specific causative involvement was not established for each one of these diagnostic charges, the implication is that such a loading of burden on delinquents made acceptable social adjustments difficult and emotional life tense, especially

[1] MONACHESI, ELIO D., "Trends in Criminological Research in Italy," *American Sociological Review*, Vol. 1, pp. 398–404, 1936.

[2] *Ibid.*, pp. 405–406.

in unfavorable environments.[1] In studies of this sort, one always wonders whether the diagnostic counts would be as unfavorable against delinquents if the clinicians did not know when they were making their probings that this is a delinquent case and that is a nondelinquent sibling.

Kretschmer's Types of Physique and Character

The concept of the constitutional determination of criminal behavior was enlarged to incorporate the speculations and contentions of Kretschmer. As a result of his investigations of insane persons in Swabia, Kretschmer was impressed with the fact that they displayed definite types of body build, as well as characteristic and associated psychic dispositions. The basic types of physique and mind, found in observations on just 260 cases of insane persons, have been generalized to apply to all peoples, independent of race or class. And they have been applied widely to criminal constitutions.[2]

The basic types of body build in the Kretschmerian scheme are the asthenic, athletic, pyknic, and certain mixed and unclassifiable types. The asthenic is characterized by a deficiency of thickness of face, neck, trunk, extremities, skin, fat, muscle, bone, and vascular system. This tendency to leanness is associated with "unlessened length." The type gives the general impression of a "lean narrowly-built man, who looks taller than he is, with a skin poor in secretion and blood, with narrow shoulders, from which hang lean arms with thin muscles, and delicately boned hands; a long, narrow, flat chest, on which we can count the ribs, with a sharp rib-angle."[3] The athletic type has strong development of skeleton, musculature and skin, wide shoulders, excellent chest, a firm stomach, a trunk that tapers in its lower sections, "so that the pelvis and the magnificent legs sometimes seem almost graceful compared with the size of the upper limbs and particularly the hypertrophied shoulders."[4] The pyknic type possesses medium height, rotundity of figure (barrel trunk), a soft broad face, short massive neck, soft, short-wide hands, soft rounded limbs showing "little muscle relief or bone relief," rounded shoulders pushed forward.[5]

In regard to psychic disposition, Kretschmer took over the Kraeplin typology and found two major mental types among the insane: circular

[1] Healy, William, and Augusta F. Bronner, *New Light on Delinquency and Its Treatment*, pp. 73–77, New Haven, 1936.

[2] See, for example, W. A. Willemse, *Constitution-Types in Delinquency*, New York, 1932, for an application of the Kretschmerian psychotypology to delinquent boys in two reformatories of South Africa.

[3] Kretschmer, E., *Physique and Character*, translated by W. J. H. Sprott, p. 21, New York, 1925.

[4] *Ibid.*, p. 24.

[5] *Ibid.*, pp. 28–30.

(manic-depressive) and schizophrene (dementia praecox). The asthenic and athletic body builds were found to be predominantly schizophrene in psychic make-up, while the pyknics were found to be predominantly circular.[1] Hence, Kretschmer was impressed with the biological affinity of the two types of mind for the types of body build.

He projected the two basic types of mind back from the psychotic (the insane) to the normal personality. However, he paused first to apply the dichotomy to the cases on the borderline between normal and psychotic, *i.e.*, to "those abnormal persons who fluctuate between mental health and mental disorder." At this level he called the basic types cycloid and schizoid and claimed that the psychotic individuals were cycloid or schizoid in their prepsychotic life and that cycloid and schizoid individuals were found among the nearest blood relatives of the psychotics.

Assuming that the circular and schizophrene dispositions of the psychotic are merely exaggerations of mental types among healthy individuals, he claimed that fundamentally normal persons fall into cyclothyme and schizothyme temperaments. Selecting 150 cases from a larger sample of healthy persons known as to their bodily and psychic natures, Kretschmer found approximately the same affinity of schizothyme for asthenic and athletic and of cyclothyme for pyknic as he did in his study of 260 insane cases.[2] The cyclothymes and the schizothymes were found by Kretschmer to have the following characteristics:

CHARACTERISTICS OF CYCLOTHYMES AND SCHIZOTHYMES[a]

	Cyclothymes	Schizothymes
Psychaesthesia and mood...	Diathetic proportion: between raised (gay) and depressed (sad)	Psychaesthetic proportion: between hyperaesthetic (sensitive) and anaesthetic (cold)
Psychic tempo..	Wavy temperamental curve: between mobile and comfortable	Jerky temperamental curve: between unstable and tenacious alteration of mode of thought and feeling
Psychomotility.....	Adequate to stimulus, rounded, natural, smooth	Often inadequate to stimulus: restrained, lamed, inhibited, stiff
Physical affinities.....	Pyknic	Asthenic, athletic, dysplastic, and their mixtures

[a] *Ibid.*, p. 258.

While some persons corresponding to Kretschmer's type of physique and temperament may be observable in the general population or in any

[1] *Ibid.*, p. 35.
[2] *Ibid.*, pp. 208–209.

special population (such as insane or criminal), the majority of individuals cannot without violence to the data be made to fall into these physical and mental classes. There is even less justification for the two basic mental constitutions than for the categories of physique, since typing of individuals for the mental sets was merely a matter of impression, whereas typing for body traits did involve some physical measurements. If the Kretschmerian mental and body types represent unwarranted sortings of individuals, the contention that the types have affinities is still more unwarranted.

The claim of those who have applied the Kretschmerian psychotypology to examination of criminals is that the pyknics with their prevailing cyclothymic temperament commit principally the lighter offenses, while the athletics and leptosomes (asthenics) with their prevailing schizothymic temperament are more prominent in the dangerous and serious crimes. Pyknics are also supposed to be rare among habitual criminals and commoner among embezzlers of the better classes.[1] Kinberg cites von Rhoden as authority for the finding that schizothymic criminals are 58 per cent; cyclothymic, 12 per cent incorrigible; the schizothymic, 20 per cent; the cyclothymic, 65 per cent corrigible.[2]

Applying Kretschmer's characterizations and measurements to the native-born white male inmate population of the state penitentiary at Joliet, Ill. in 1926, Mohr and Gundlach found that prisoners convicted of burglarly, robbery, and larceny show a large proportion of asthenic and athletic body builds, while those convicted of fraud, violence, and sex offenses show a higher proportion of pyknics than asthenics and athletics.[3] They were unable to substantiate from their data on the prisoners' psychic life any connection between crime, body build, and cyclothymic-schizothymic temperaments. In an earlier study, Mohr and Gundlach discovered that the convicts in Illinois showed a progression of physical and mental traits rather than clear-cut types according to Kretschmer's schematization. In an original run on 254 American-born male inmates of Joliet prison, using Kretschmer's descriptions and averages, they found an incidence that approximated his distribution of physical types among the schizophrenes. However, attention and association tests, used on these inmates, failed to distinguish physical groups. Incidentally out of the 254 inmates studied, only 25 were found to be of pyknic build.[4] They also discovered that there was consider-

[1] See summary of extant studies in OLOF KINBERG, *Basic Problems of Criminology*, pp. 313–315, Copenhagen, 1935.

[2] *Ibid.*, p. 313.

[3] MOHR, GEORGE J., and RALPH H. GUNDLACH, "A Further Study of the Relation between Physique and Performance in Criminals," *Journal of Abnormal and Social Psychology*, Vol. 24, p. 100, 1929–1930.

[4] MOHR and GUNDLACH, "The Relation between Physique and Performance," *Journal of Experimental Psychology*, Vol. 10, pp. 125, 155, and 157, 1927.

able discrepancy between the subjective clinical diagnosis of body build and the objective measurements of the inmates who were diagnosed as falling within the types. It is interesting to note that considerable elimination of cases had to be made in order to get the subjective diagnosis of type to match with the objective measurements of type, and yet both appraisals were necessary really to select a pyknic, asthenic, athletic, or mixed type. All of this indicates the nonspecific and progressive nature of physique, rather than the existence of well-defined specific types.[1]

Endocrine Determination

With the rise to prominence of endocrinology, the importance of the glandular determination of physical and mental growth was revealed. But the matter did not stop there. The functioning of the glands was made a basic determiner of temperament, intelligence, character, and personality, as well as of physical and mental pathology.[2] The possibilities for explanation became myriad. Regular or irregular physical growth, certain mental deficiencies, temperamental types, body build, mental alienations and alterations, emotional stability and instability, and many other anatomical, physiological, neurological, and psychological problems potentially became wholly or partially explainable in terms of the hyper- or hypo-functioning of the ductless glands (combined or separate) or of glandular balance or imbalance. But what is more significant for criminology is the fact that endocrinological study bridged the gap between body and mind and in part validated Kretschmer's contention that the type of temperament, character, or mental set is grafted onto type of physique. The functioning of the glands was the

[1] In the effort to type criminals, one should not overlook the blood groups. In the wake of the general application of blood-group tests to almost every conceivable group of people, such tests have been applied to convict populations. Bohmer and Gundel's work in Schleswig-Holstein has indicated differences, although we do not know how significant, between the percentage distribution of convicts, insane, and general population within the four blood groups.

Groups of persons	O	A	B	AB
Normal population	37.3	43.6	13 4	5.7
Convicts	34.6	44.2	19.1	2.1
Insane	28.3	39.4	25.1	7.2

(This study is cited by Kinberg, *op. cit.*, p. 309.) The thought is that if significant differences can be demonstrated for criminals as contrasted with noncriminal populations, this fact might add weight to the contention for the existence of constitutional factors in criminality.

[2] Louis Berman, in his book on *The Glands Regulating Personality* (New York, 1922), had much to do with the popularization of the notion that glandular functioning determines personality traits.

causal nexus. At the same time, glandular disturbances or imbalance could account for many disharmonic, defective, unstable, and inadequate qualities found in the suspected constitutional inferiority of criminals. Together with the Kretschmerian psychotypology, endocrinology added great support to the European contention for the causal efficacy of the constitutional factor in crime and the existence of constitutional inferiority of real criminals. The applications of endocrinology revived the European criminal anthropologists who needed help to contend once more, with new evidence, that the mainsprings of crime are lodged in the organism. "We who have remained convinced," says Salvatore Ottolenghi, "of the importance of the morphological study of the criminal note with true enthusiasm that new confirmation is being brought by the endocrinological researches on the correlation between morphological and psychological characteristics on the basis of a common causal relationship."[1]

According to Nicola Pende, the exaggerated development of the skeleton, of jaw- and cheekbones, the abnormal size of hands and feet, the apelike length of arms, thick and unctuous skin, diminished sensitivity to pain—traits not uncommon in criminals—are indications of hyperfunctioning of the pituitary gland. Still more common among criminals, he contends, are evidences of hyperthyroidism, such as exaggerated development of crop hair and eyebrows, bright and inflamed eyes, heart irregularities, rapid vasomotor reflexes. Malfunctioning of the genital glands, he claims, exerts great influence on sex crimes and crimes of violence, as shown by the frequent existence of anomalies of sex criminals, such as masculine traits of female criminals and feminine characteristics of male offenders.[2]

Giuseppe Vidoni claimed that he discovered a great preponderance of the hypovegetative glandular type among nonviolent offenders, as pickpockets and thieves, and of the hypervegetative glandular type among violent criminals, as robbers and murderers.[3] The hypervegetative type according to Vidoni accounts for 55 per cent of violent and only 12 per cent of nonviolent offenders.

Of 31 cases of criminals showing glandular disorders, DiTullio found that 22 had defective heredity. Of these, 10 had alcoholic fathers; 10

[1] "L'analisi moderne della personalità umana in endocrinologia e in antropologia criminale," *La Riforma medica*, Vol. 38, p. 1039, 1922, quoted by Thornsten Sellin in "A New Phase of Criminal Anthropology in Italy," *Annals of American Academy of Political and Social Science*, Vol. 125 p. 241, 1926.

[2] Cited by SELLIN, *op. cit.*, pp. 237–238, from Nicola Pende's *Dalla medicina alla sociologia*, pp. 32–34, Palmero, 1921. See, also, Sellin's bibliography, *op. cit.*, p. 242, for reference to other works of Pende.

[3] SELLIN, *op. cit.*, p. 238, from Vidoni's *Valore e limiti dell' endocrinologia nello studio del delinquente*, pp. 99–111, Bocca, Turin, 1923.

others had psychopathic parents; 1, syphilitic parents; 1, a hysterical criminal mother. Of the remaining 9, there were 5 negative and 4 doubtful as to hereditary determination.[1]

Examining the bodies of 192 inmates of state institutions in West Virginia, Morris was impressed with the persistence of the thymus gland in 22 of the cases—a gland that is normally supposed to lose its potency early in life. Of the 22, 19 were first- and second-degree murderers, and 1 was a rapist. Consequently, he contended that there must be some relation between criminality and the persistence of this gland, which ordinarily atrophies at puberty.[2] Dr. Authur Reynolds stated that from 10 to 15 per cent of the prisoners at San Quentin he examined showed "visible signs of glandular dysfunction," a proportion which he believed to be higher than in the general population.[3]

It is interesting to note that the most serious applications of the hormone formula (endocrinology) to criminological research and the etiology of crime have been made in Italy, where the implications of glandular determination of behavior and constitution fitted so neatly into the traditional bias of the Lombrosian school.[4] However, the most sweeping claims for the glandular explanation of crime were made by Schlapp and Smith in their book, entitled *The New Criminology*. "The reader will find as he proceeds that the glandular theory of crime accounts for all the discrepancies, errors, oversights and inadequacies of the earlier explanations."[5] Mental deficiency, which the authors claim to be paramount in the etiology of crime, is considered to be due largely to deranged bodily chemistry (glandular imbalance). The intelligent higher type criminal is also a victim of deranged body chemistry.[6] Finally, these authors dogmatically support the notion of the defective and deficient constitution of criminals, using glandular derangement as a principal explanation for this condition. "One of the fundamental contentions of this writing is that practically all inmates of prisons and all real criminals are either deficient or defective."[7]

[1] Cited by MONACHESI, *op. cit.*, p. 400, as summarized from DiTullio's *Manuale di anthropologia e psicologia criminale*, pp. 42–44, Rome, 1931.

[2] Cited by MORRIS PLOSCOWE, "Some Causative Factors in Criminality," *Report on the Causes of Crime*, National Commission on Law Observance and Enforcement, no. 13, Vol. 1, p. 31, Washington, D. C., June 26, 1931. See MORRIS, S. J., "The Relation of the Persistent Thymus Gland to Criminology," *Medical Record*, Vol. 99, p. 438.

[3] PLOSCOWE, *op. cit.*, pp. 31–32.

[4] See SELLIN, *op. cit.*, for bibliography and the contribution of Italian criminologists on the relation of ductless glands to criminality. Also, see KINBERG, *op. cit.*, pp. 316–328.

[5] SCHLAPP, MAX G., and EDWARD H. SMITH, *The New Criminology*, p. 72, New York. 1928.

[6] *Ibid.*, pp. 147–160, 163, 189.

[7] *Ibid.*, p. 149.

Grimberg is more moderate in his application of endocrine determination to the etiology of crime. While he subscribes to the idea that delinquents possess a constitutional inferiority (both psychic and organic) which makes them potentially unable to adjust to society, he thinks of disturbed body chemistry as merely one factor producing the inability to adjust. He claims that the function of the thyroid gland is more related to the "emotional make-up" of individuals than is that of any other gland, that hypothyroidism is related to sullenness, taciturnity, irritability, dullness, and lack of emotional control, and that hyperthyroidism is related to great emotional instability, besetting fears, great apprehension, and increased libido (sex drive).[1] Making no special research on cases themselves, Schlapp and Smith, as well as Grimberg, are merely making unwarranted claims from already current unwarranted claims as to the potency of endocrine functions and disturbances on constitution and character.

One of the most cautious and careful studies of the relation of the endocrines to behavior was made by A. W. Rowe. Out of 4,000 cases that were examined because they presented outward evidences of endocrine disorder, 650 cases, namely those under seventeen years, were selected for intensive investigation. Of the 650, 374 were found to have endocrine disorder, while 276 did not have endocrine disorders but did have other diseased conditions. Of the 374 endocrine cases, 18 per cent, and of the nonendocrine cases, 13 per cent displayed behavior problems, which included such items as asocial, morose, bully, disobedient, vicious, pathological liar, vagrant, thief, sex delinquent, and homicide. Rowe did not pretend to estimate from his sample how important the factor of glandular disturbance is in delinquency. He merely attempted to discover whether or not and how glandular disorders are actually related to behavior problems. Rowe does not discount the operation of situational and mental factors in order to play up the importance of endocrine disorders. As a matter of fact, he merely suspected the possible relation between endocrine function and behavior problems. He suspected, further, that the glands affect behavior by affecting the metabolic level of the person and that disease as well as glands can affect the metabolic level and in turn affect conduct.[2]

Here no attempt has been made to give full coverage on all the contentions regarding the relation of ductless glands to behavior, but the citations do give an impression of the types of claims made for the influence of endocrine functioning on criminal behavior. The principal criticisms to be lodged against the claims so far are as follows: Validated

[1] GRIMBERG, L., *Emotion and Delinquency*, pp. 78, 107–109, London, 1928.

[2] ROWE, A. W., "A Possible Endocrine Factor in the Behavior Problems of the Young," *American Journal of Orthopsychiatry*, Vol. 1, pp. 451–475, 1931.

norms for normal and abnormal functioning of ductless glands have not been established; the range of effects of glandular disturbances on growth and behavior has not been validated and reduced to certainty; the existence of definite glandular types of personality or temperament has not been verified; a scientific and adequate comparison of glandular disorders as between criminals and noncriminals has not been made; the relation of glandular disturbances to conduct in the behavior situation has been assumed rather than actually investigated in detailed case studies. In other words, the use of endocrine explanations in criminality has not lifted the etiology of crime out of the realm of unwarranted claims and speculations into the realm of verified conclusions.

CHAPTER XI

MENTAL FACTORS IN CAUSATION

The material from indicative outstanding studies presented in the previous chapter gave us no good reason to be impressed by claims for the hereditary, constitutional, and endocrine determination of crime. According to the present state of knowledge, it cannot be said that factors such as these are not operative in the causation of crime. All that can be said is that valid substantiation of their existence and workings has not been made so far. It is even reasonable to suppose that validation of the causal potency of these factors may never be made. For want of a better covering classification, the findings from the studies on hereditary, constitutional, and endocrine factors in criminality were grouped under the biological factors in causation.

It is the purpose of the present chapter to appraise the findings from the research on the relation of mental deficiency, mental disorders, psychopathic personality, mental mechanisms (according to psychoanalysts), and motivation to criminal behavior. Such factors have been included under mental factors in causation, although they are in several respects related to the biological factors previously discussed.

Mental Deficiency

While mental deficiency is one of the many earmarks of the so-called constitutional criminal, subnormality and feeble-mindedness have been considered important causes of crime in their own right, separate and apart from the larger frame of reference. As will be recalled, Goring concluded that weak-mindedness was an outstanding factor in the production of crime. Since Goring's day, prison populations and various samples of offenders, particularly in America, have been subjected to psychometric tests, to determine their level of intelligence and to detect whether offenders tend to fall into the subnormal and feeble-minded levels of intelligence more than nondelinquents. Assembling the results of several early psychometric testings of juvenile reformatory inmates, Goddard claimed that these studies proved beyond the shadow of doubt that low-grade mentality was the greatest single cause of crime. He concluded that "at least 50 per cent of all criminals are mentally defective."[1] Goddard, it should be remembered, was extremely prejudiced in

[1] Goddard, Henry H., *Feeble-mindedness; Its Causes and Consequences*, p. 9, New York, 1926.

favor of biological determination of human traits and social problems. "The hereditary criminal passes out," says Goddard, "with the advent of feeble-mindedness into the problem. The so-called criminal type is merely a type of feeble-mindedness, driven into criminality for which he is well fitted by nature. It is hereditary feeble-mindedness not hereditary criminality that accounts for the conditions."[1] However, of the many different testings of criminal populations, several of the test runs indicated that some groups of offenders were above or about the average level of intelligence for the general population. In fact, many contradictory results were accumulated, so that the conclusion could not be substantiated that the criminal is more prevalently subnormal and feeble-minded than the noncriminal. One of the most extensive studies of the intelligence level of prisoners was made by Murchison, who soon after the World War was able to administer the United States Army Alpha test in several state prisons and reformatories of the United States. The prisoners were found to concentrate in the levels of intelligence above average more than did the men of the white draft army, and consequently made a superior showing in intelligence grading.[2] Murchison even discovered that the intelligence ratings of habitual offenders was slightly superior in general to that of first offenders. Says Murchison, "If it is true, as some have claimed, that feeble-mindedness is an important factor in recidivism, it is equally true that high intelligence is just as important a factor."[3]

Reporting on a reexamination of the results of 350 studies of intelligence of American offenders, Sutherland clearly showed that in the years following the initial use of psychometric tests there has been a downward trend in the proportions reported as feeble-minded.[4] Sutherland believed the reason for this to be that the methods of measuring intelligence and the standards for normal have changed through the years, especially since the World War period. Sutherland also called attention to the great variation in the percentage of feeble-minded reported even in the postwar studies of offenders, when the psychometric tests were supposedly standardized and improved. This variation was found to be due in part to the special selectivity of various types institutions, *i.e.*, a certain institution may be sent only dull, low-grade inmates. The variation was due also to differences in methods of the tests and in the administration of the tests.[5] Perhaps most important of all was the finding that "feeble-mindedness has not been demonstrated to be a

[1] *Ibid.*, p. 8.

[2] MURCHISON, CARL, *Criminal Intelligence*, p. 43, Worcester, Mass., 1926.

[3] *Ibid.*, p. 72.

[4] SUTHERLAND, E. H., "Mental Deficiency and Crime," in Kimball Young (ed.) *Social Attitudes*, pp. 358–359, New York, 1931.

[5] *Ibid.*, pp. 360–361.

generally important cause of delinquency."[1] Sutherland's reexamination of the criminal intelligence studies also made it plain that there is no significant relation between level of intelligence and recidivism.[2]

Reworking the data from the better administered, comparable psychometric studies, Zeleny concluded that for every noncriminal below the mental age of eleven there are 1.26 male criminals below this mental age, which confirmed a 1.3:1 ratio of the mental inferiority of adult male criminals to noncriminals of the same state. By less precisely determined criteria for feeble-mindedness and by intrastate comparisons of criminal to noncriminal mental inferiority, the following ratios were found: male juvenile delinquents, 1.8:1; women delinquents, 2.8:1; delinquent girls, 2.7:1.[3] Using calculations based on the reworked psychometric studies of offenders, Zeleny estimates that, if we accept the mental age of eight as the upper limit of feeble-mindedness in the general adult population, there are 3.8 per cent of the criminal population below this level—3.2 per cent of male and 5.9 per cent of female criminals.[4] While this estimate is higher than the estimated feeble-minded in the general population, it is not high enough to give concern that feeble-mindedness is an important attribute of offenders, let alone an important causative factor of crime.

If a high proportion of offenders in courts as well as inmates in penal institutions were feeble-minded and a high proportion of all the feeble-minded were delinquent, then there might be good reason for suspecting that feeble-mindedness is an important cause of crime. But this has not been found to be true.

Looking at the matter from the standpoint of those who have made detailed case studies of offenders, in the effort to determine the actual operation of causative factors, there seems to be no justification for believing that feeble-mindedness is a prevalent causative factor. Bronner, who has had the opportunity to study thousands of cases of juvenile delinquents, claimed (even as early as 1925) that "there is now quite general acceptance of the minimized role which mental defect plays in the genesis of misconduct and of the correlated fact that the feeble-minded vary much in personality traits."[5]

It should be borne in mind that, just because an offender in court or an inmate in a penal institution is found to be feeble-minded or subnormal in

[1] *Ibid.*, pp. 362–368.

[2] *Ibid.*, pp. 370–371.

[3] ZELENY, LESLIE DAY, "Feeble-mindedness and Criminal Conduct," *American Journal of Sociology*, Vol. 38, p. 574, January, 1933.

[4] *Ibid.*, p. 576.

[5] BRONNER, AUGUSTA F., "The Contribution of Science to a Program for Treatment of Juvenile Delinquency," *The Child, the Clinic and the Court*, p. 80, New York, 1925.

intelligence, this is no reason to assume that the mental condition operated as a causative factor of misconduct. Such a relation to misconduct needs to be shown from the case record. Usually factors other than mental defect need to be present to account for the antisocial behavior—factors which call the mental condition into play. It is highly probable than many feeble-minded and subnormal offenders become offenders for reasons not bearing on their mental condition. On the other hand, there is nothing in the nature of subnormality or feeble-mindedness which must lead to criminality. In fact, the opposite seems to be true, when we consider that the overwhelming majority of mentally defective persons do not get into difficulties with the law.

A study of 5,000 case records of problem and delinquent children on file at the Institute of Juvenile Research in Chicago, made by Ackerson, revealed that some behavior problems increased in incidence with the graduated classification of children from lower to high levels of intelligence, some decreased slightly in incidence toward the higher levels of intelligence, some neither decreased nor increased, some increased at the lower grades of intelligence and decreased at the higher levels of mentality.[1] However, the actual statistical correlation of increased or decreased incidence with levels of intelligence proved to be very low.[2] Future statistical research based on adequate case records, will be necessary to indicate any suspected relationship between level of intelligence and special types of offenses and behavior problems.

Relation of Mental Disorders to Crime

There is no clear indication at present that mental disorders (psychoses) play a very important part in the etiology of crime. It cannot be shown that the general run of adult offenders are alarmingly more psychotic than the nondelinquent population. Reporting on his observations and studies of English offenders, Dr. East stated that of 133,401 persons admitted to prisons in England and Wales from April 1, 1923, to March 31, 1926, only 1,750 were dealt with under the Lunacy and Mental Deficiency Act or a ratio for both combined of 1 to 76.[3] Of 14,927 male remand and trial prisoners observed by Dr. East in two years, only 225, or 1.5 per cent, were found to be insane; 205, or 1.3 per cent, mentally defective; and 212, or 1.4 per cent, abnormal mentally but not certifiable under the Lunacy and Mental Deficiency Act.[4]

Psychiatric and psychometric examinations of 9,958 cases in the General Sessions Court of New York City between 1932 and 1935 revealed

[1] See Ackerson, Luton, *Children's Behavior Problems*, Chicago, 1931.

[2] *Ibid.*, p. 255.

[3] East, W. Norwood, "Heredity and Crime," *The Eugenics Review*, Vol. 20, p. 169, 1928–1929.

[4] *Ibid.*, p. 169.

that only 1.5 per cent were psychotic; 2.4 per cent, defective; 6 9 per cent, psychopathic; and 6 9 per cent, psychoneurotic. While the last two diagnoses are always less objective and the more dubious, yet, with them included, only 18 per cent of the sample could be considered mentally abnormal. With so very low a percentage of the cases being psychotic, defective, and psychopathic, there was no reason to suspect that these conditions played any other than a very minor role in the causation of crime, even without a standard comparison from a noncriminal group matched for age, sex, race, and class.[1]

Reporting on the summary of mental condition in prisons, reformatories, and houses of correction and in jails as found by surveys made by the National Committee for Mental Hygiene (United States), Ploscowe cites the following percentages of cases diagnosed as having mental disease or deterioration and having psychopathic personality in the various states studied:

PERCENTAGE OF OFFENDERS DIAGNOSED AS HAVING MENTAL DISORDERS AND PSYCHOPATHIC PERSONALITY BY TYPE OF PENAL INSTITUTION AND BY SELECTED STATES[a]

State	Prisons, reformatories, and houses of correction		Jails	
	Mental disorders	Psychopathic personality	Mental disorders	Psychopathic personality
Arizona....	2 9	8 5	9	18 8
Georgia....	13 4	5 5	3 0	3 0
Kentucky	9	16 7	3 1	45 3
Maryland	2 9	16 9	5 4	21 3
New York	12 0	18 9	7 3	42 2
North Dakota	5 2	35 3		
Ohio	.		2 0	18 0
Rhode Island	5 6	11 4	4 8	6 8
South Carolina	10 1	18 9	3 0	8 9
Wisconsin	6 9	18 1	3 4	15 2

[a] PLOSCOWE, MORRIS, "Some Causative Factors in Criminality," National Commission on Law Observance and Enforcement, *Report on the Causes of Crime*, no 13, Vol 1, p 51, Washington, D C, June 26, 1931

The range of the percentages of inmates diagnosed as mentally disordered in penal institutions is from 0 9 to 13.4, the jails having a lower range than the prisons, reformatories, and houses of correction. Even 13 per cent, the highest figure (Georgia), is not great enough to give cause for undue concern in view of the vast elimination of cases that

[1] BROMBERG, WALTER, and CHARLES B THOMPSON, "The Relation of Psychosis, Mental Defect and Personality Types to Crime," *Journal of Criminal Law and Criminology*, Vol. 28, pp 73, 75, 78, 87, 1937–1938.

takes place from apprehension to incarceration in a penal institution. That the jails contain lower percentages of inmates diagnosed as psychotic may mean that these institutions get as inmates the less complicated and less serious offenders. On the other hand, the wide variation in percentages of inmates diagnosed as mentally disordered indicates that the institutions in the various places get a slightly different selection of cases in the legal process or that their medical and psychiatric staffs diagnose somewhat differently, both of which may be true.

There is some suspicion that certain types of mental disorders are related to certain types of antisocial behavior, just as there is suspicion—so far, not validated—that there is a connection between certain levels of intelligence and certain behavior problems. Dr. W. C. Sullivan, who reported on his observations and studies as medical superintendent of Broadmoor Lunatic Asylum, England, claimed that general paralysis (due to syphilis) in incarcerated offenders is related to crimes of acquisitiveness and rarely to homicidal offenses. The paralytics are seldom serious sex offenders, while their only other prevalent offense is arson. Persons suffering from senile psychoses seem to offend mainly by murder and sex advances and once in a while by arson and acquisitiveness. For chronic alcoholics, murder combined with sex jealousy is the most usual crime. In delirium tremens cases, murder is the result of impulse. Chronic alcoholics less often commit sex crimes, indecent exposure, arson, and malicious destruction. Dr. Sullivan also stated that manic excitement is rarely related to grave crimes but commonly to petty crimes. Murder is rare in manic cases. Homicidal acts are more likely to accompany the depressed phase of manic-depressive psychosis. Dementia praecox cases show abrupt, irrelevant action and unprovoked murder or violence. They commonly show a swing from suicidal to homicidal impulse. Other impulsive crimes, such as arson, willful damage to property, and sex crimes are fairly common among praecox cases. Serious crimes in cases of paranoids depend upon the extent to which systematization of delusions has taken place. Homicidal tendencies are found among the more advanced systematizations. In earlier stages, paranoids use legitimate methods for airing their grievances and retain self-control. Consequently, they do not contribute to homicidal crimes as much as the public believes.[1] The extent to which these conclusions on the relation of type of psychosis to type of criminal behavior will be validated by future research is something for the future to decide.

There are several important questions bearing on the relation of insanity to crime for which there are no ready answers. First, to what

[1] SULLIVAN, W. C., *Crime and Insanity*, pp. 32–34, 43, 57, 65–78, 89–95, 103–120, 122–129, New York, 1924.

extent is the criminal deed of the psychotic offender the first official criminal act? In other words, do definitely psychotic offenders tend to be first offenders in the same proportion as nonpsychotic offenders or are they disproportionately multiple offenders? Secondly, to what extent do the insane generally commit crimes before being given custodial care? In other words, is there any reason to suspect that mental disorder, in spite of its plausible relation to abnormal and antisocial behavior, disproportionately tends toward criminal behavior? Thirdly, if there is a prepsychotic stage for persons who later become full-bloom psychotics, what might be the relation of this stage to delinquent behavior? How can the prepsychotic stage be identified before maturation of the psychosis for detectable causative analysis? Certain clues to the answers for some of these questions may be found in the rather signal researches of Dunham, the findings of which are given below.

One of the most revealing studies of the relation of insanity to crime was made by Dunham, a sociologist who worked in conjunction with the research division of the mental hospitals in Illinois. He reported the findings of his investigations on the relation of schizophrenia to criminal behavior. Analyzing 543 male cases incarcerated for the first time in the Illinois Security Hospital for the Criminal Insane, between 1922 and 1934, all of whom committed a major crime, Dunham found that they comprised only 1.7 per cent of the total male insane committed to mental hospitals of Illinois, and only 1.3 per cent of male criminals sent to penal institutions of Illinois. Hence, the criminal insane comprised a very insignificant part of the institutionalized insane and criminal, a proportion so low that it would lead one to suspect that very few insane become criminals and very few criminals are insane. Comparing the percentage distribution of the most frequent occurring mental disorders of the male criminal insane with the male noncriminal insane, Dunham discovered that 40 per cent of the 543 criminal insane cases and 24 per cent of the noncriminal insane in Illinois were diagnosed as schizophrenia (all types); 12.8 *vs.* 1.8, as psychosis with mental deficiency; 6.4 *vs.* 0.6, as paranoid; 2.7 *vs.* 0.4, as psychopathic personality.

While schizophrenia is the most prevalent psychosis related to crime (disproportionately so when compared to the noncriminal insane—40 per cent *vs.* 24), murder is the most frequent crime of the schizophrenes, with larceny, burglary, and armed robbery next in order of frequency.

Attempting to answer the question as to whether schizophrenes are delinquent in youth, Dunham cleared a sample of 525 male catatonics and 345 paranoids, fifteen to twenty-nine years of age, who had been committed from Chicago to mental hospitals of Illinois during 1922 to 1934, through the social service exchange (a central case-clearance bureau), to see to what extent these cases had records in the juvenile court of Chicago.

One out of the 525 catatonics had an actual record in the juvenile court, whereas 8 had siblings who had records therein. Of the latter 8 cases, 5, while not officially delinquent as juveniles, had later registrations with the police. Hence, the ordinary catatonics appear to be very law abiding. Of the 345 paranoid schizophrenes, only 2 had actual records in the juvenile court, whereas one had a brother who had a juvenile court record.

The catatonics and the paranoids were cleared through the Bureau of Identification in Chicago for criminal charges known to the police. The results were as follows:

NUMBER AND PER CENT OF SCHIZOPHRENES HAVING POLICE CHARGES ACCORDING TO DUNHAM'S CLEARANCE IN CHICAGO

Charge	Catatonics		Paranoids	
	Number	Per cent	Number	Per cent
No charges	446	85 0	227	65 8
Minor violations	53	10 1	90	26 1
Crimes against persons	7	1 3	13	3 8
Crimes against property	19	3 6	15	4 3
Total .	525	100 0	345	100.0

It appears that 34 per cent of the paranoids and 15 per cent of the catatonics had police charges, although in both instances the majority of the charges were minor. Further analysis revealed that 50 per cent of the offending cases in both categories of diagnosed mental condition were offenders of single charges. At this older level of exposure to crime, as reflected by the coverage of the police identification bureau, the paranoids are more delinquent than the catatonics. The relative infrequency of catatonic involvement in offenses, according to Dunham, is probably related to the characteristics of these cases as a social type—to their usual inhibition, isolation, and timidity. Searching life-history documents from several of the catatonics for further clues, Dunham found that they reveal a strong allegiance to the accepted codes of society and very little interest in delinquency participation. Often the catatonic displays no knowledge of the delinquent acts of young men and boys in his neighborhood. (See Appendix A.)

In regard to the few catatonics that do become involved in crime, Dunham has the hunch that they get involved as a result of their mental breakdown and confusion. He believes that in instances where catatonics have numerous charges against them the correctness of the mental diagnosis is to be questioned, since this multioffense status is so atypical of catatonics. From a special study of 11 catatonics who were committed

to the Illinois Security Hospital during 1922 to 1934 and who still were inmates in 1937, Dunham found that 4 had no criminal record at all, 4 had a doubtful criminal record, 2 had a dubious psychiatric diagnosis but lacked a criminal record, and 1 had a dubious diagnosis but a long record of petty offenses, all of which findings confirmed the suspicion that catatonics are not given to criminal behavior.

Dunham contends that the schizophrene, as contrasted to criminals generally, has "no feeling of belonging to any phase of group life; he is isolated from, rejected by or fails to establish group contacts." On the other hand, the ordinary criminal, according to Dunham, is not estranged from social contacts and feels no anxiety or uncertainty in company. From these several standpoints of analysis, there is no reason to believe that the schizophrene, particularly the catatonic type, is prone to crime or should be expected to commit crime in the period of life prior to incarceration.[1]

Psychopathic Personality

In America principally, the notion of the psychopathic personality has been prevalently used in psychiatric study of behavior and delinquent cases. In European criminology, the psychopathic personality is included in the study of criminal constitution, where it becomes just one symptom of a large number of mental and physical traits that compose the criminal constitution. American psychiatrists and psychologists are therefore more disposed to divorce the psychopathic personality from a physical constitution. The psychopath, in the American use of the term, has come to include persons who for one reason or another are inordinately unstable, eccentric, egocentric, perverse, and have difficulty in making adjustments to ordinary social situations. In the mental hygiene surveys of mental conditions in jails and penal institutions cited above, it will be noticed that the percentages of inmates diagnosed as psychopathic range from 3 to 45.3, which represents a much wider range and variation than those for percentages of mental disease. Many authorities have called attention to the fact that the concept of psychopathic personality lacks sufficient definiteness for use in making diagnosis and that competent psychiatrists themselves will vary greatly in their judgments as to who should or should not be classified as psychopaths.[2]

A recent careful statistical analysis of the diagnoses of psychopathic prisoners in one of the best psychiatric units in any modern state prison, namely at Sing Sing, N. Y., concluded that "the diagnosis of psycho-

[1] Dunham, H. Warren, "The Schizophrene and Criminal Behavior," *American Sociological Review*, Vol. 4, pp. 352–361, 1939.

[2] Ploscowe, Morris, "Some Causative Factors in Criminality," National Commission on Law Observance and Enforcement, *Report on the Causes of Crime*, no. 13, Vol. 1, pp. 52–56, Washington, D. C., June 26, 1931.

pathic is almost utterly unreliable and that the concept of psychopathy is not consistently determined."[1] Interestingly enough, the diagnoses of normal and feeble-minded were found to be consistently determined and highly reliable, the latter even more so than the former.[2]

Some psychiatrists even go so far as to contend that the very fact that persons become offenders is evidence that such persons are psychopathic. Otherwise they would have made normal adjustments to society. Therefore, psychopathic personality is the principal causative factor of crime. This represents unwarranted reasoning in a circle. By definition, crime is made evidence for the existence of a psychopathic condition and then the psychopathic condition is made the cause of criminal behavior. But in the instances where exaggerated claims are not made, the fact that a prisoner is diagnosed as having psychopathic traits is not sufficient evidence to explain his behavior or career. As has been mentioned in other connections, two steps are necessary to validate psychopathic traits as a causative factor. In the first place, as a result of intensive case study, the mental condition must be proved to have a direct and determining bearing on the behavior of the individual which leads to or actually becomes crime. In the second place, some indication needs to be made as to the extent to which and reasons why persons with psychopathic trends of personality do or do not fall into crime. This would amount to making adequate control-group studies through which the differential influence of psychopathic mental condition is discoverable. If, as a result of such comparative study, the great majority of psychopathic persons were not found to get involved in crime, there would be no reason to suppose that psychopathic traits are very prevalent or important causative factors of crime. And the burden would be thrown back on case studies to show whether and how psychopathic traits are related to criminal behavior in the cases where the offender is found to be psychopathic.

If, in the interest of scientific realism, marked deviations in personality, considered as separate personality traits, are substituted for the less realistic catch-all diagnosis of psychopathic personality, there is some reason to believe that delinquents might possess as a group a more abundant share of these personality deviations than do nondelinquents. Healy's recent study of 105 delinquent children as compared with their nondelinquent siblings of nearest age contains the finding that there were 25 definite, 5 probable, and 3 possible diagnoses of personality deviations among the delinquents, as compared with only 2 definite diagnoses of

[1] POWELL, NORMAN JOHN, *'A Statistical Analysis of the Diagnoses of Normality, Psychopathy and Feeblemindedness in a Prison Population*, Columbia University, Ph.D. thesis, p. 41, New York, 1936.

[2] *Ibid.*, p. 41.

personality deviations among their nondelinquent siblings. This meant that more cases which were thereby handicapped in making acceptable adjustments to life were found among the delinquents than among the nondelinquents.[1] Among the separate traits classified by Healy under personality deviations were neurosis, mild or early psychosis, constitutional inferior personality, schizoid personality, posttraumatic personality, postencephalitic personality, epileptic personality, and homosexual personality.

Psychoanalytic Contributions

This discussion cannot presume to take into account all the different emphases and shades of emphasis that are to be found among persons claiming to be psychoanalysts or who claim to use psychoanalytic techniques of interviewing and treatment. It must be admitted that, instead of one standard and generally accepted group of tenets in psychoanalysis, there exist several points of departure. Consequently, we can only indicate some of the ways in which criminal behavior is conceived by persons who approach the problem of crime and delinquency from the psychoanalytic point of view, and we cannot claim that we are presenting the authoritative, generally accepted point of view.

However, one soon discovers from the literature and writings that psychoanalysis in all its different branches and applications has made certain unique interpretations of behavior, whether criminal or neurotic, in terms of unconscious motivating forces, fixations, conflicts, frustrations, neuroses, inferiority, regression, guilt feelings, and psychic trauma. In fact, psychoanalytic interpretations have widely permeated and influenced the thinking and point of view of experts dealing with behavior cases of all sorts, whether they be psychologists, physicians, psychiatrists, or sociologists.

For example, certain modified psychoanalytic notions have been integrated into the total personality approach of Lenz's criminal biological school. He contends that the roots of our tendencies are to be found in the inborn drives that seldom crop out in conscious form. Only those drives cross the threshold of consciousness which are harmonious with the conception of self, while the bad tendencies of the offender belong to his unconscious life. The same bad tendencies that lead to failures at home, at school, at work—in social life generally—repeat themselves in criminal behavior.[2]

Hans Brennecke reveals a partially psychoanalytic interpretation in the case analysis of a murderer. The particular case cited, he insists, is

[1] Healy, William, and Augusta F. Bronner, *New Light on Delinquency and Its Treatment*, p. 75, New Haven, 1936.

[2] Lenz, Adolf, "Die Bedeutung der Kriminalbiologie," *Archiv für Kriminologie*, Vol. 88, pp. 220–221, 1931.

that of a primitive, unfeeling personality, who has lost respect for property and life. In a cold-blooded, calculating way he committed murder to get a pay roll. Without remorse he passed through police and court handling, made no confession, and defended himself coolly. He showed no trace of guilty feelings and shame. After he was freed from detention, he committed thefts and declared to his accomplices that he would commit a new murder. After exposure of his career and life at home, he went away, found work, married, and became a father. In the new circumstances nobody was suspicious of him, but after much mental conflict he finally confessed the deed to his wife. Brennecke tries to explain why, and in so doing turns to psychoanalytic formulations. Was it the love of the child and his father love which caused the remorse? Brennecke thinks so. The psychic breakdown and the mental depression following his confession show how great was his repression. But after this period, the man relapses into his original character—cold and unfeeling. It looked as if, says Brennecke, fate had taken the child as the tool to bring out the truth and the only high feeling in the man.[1]

Apart from the validity of the material on which this case analysis was made, it seems apparent that the psychoanalytic formulation is merely used to explain the absence of remorse, the final breakdown of repression, and the relapse into a state of social unfeeling, rather than the commission of the deed itself, which goes unexplained.

Another example of the use of psychoanalytic formulations in the explanation of crime may be taken from statements of Dr. Alfred Adler.

> We find the same kind of failure exhibited in criminals as in neurotics, psychotics, suicides, drunkards and sexual perverts. They all fail in their approach to the problems of life; and in one very noticeable point, they fail in precisely the same way. Every one of them fails on social interest. They are not concerned with their fellow-beings. [The struggle to rise above inferiority and to overcome difficulties is found among criminals as well as all of us. It is not the fact of the criminal's striving that is important but the fashion or direction of his striving.] The goal of the criminal is always to be superior in a private and personal manner. What he is striving for contributes nothing to others.[2]
>
> The criminal's superiority exists only for himself and only in his own imagination. The themes of the criminal and the neurotic are very much alike. In both the striving is on the useless side. [The neurotic, however, withdraws from activity; the criminal joins others. There are gangs of thieves but no gangs of anxiety-neurotics. The neurotic believes he desires to cooperate but is unable; the criminal refuses to cooperate. The criminal has a conscious super complex,

[1] BRENNECKE, HANS, "Ein Casuistischer Beitrag zur Psychologie des Mörders," *Monatsschrift für Kriminalpsychologie und Strafrechtsreform*, Vol. 23, pp. 402–415, 1932.

[2] ADLER, ALFRED, "The Criminal Pattern of Life," *The Police Journal*, Vol. 17, p. 8, New York, March 30, 1930. Brackets contain condensation of the argument.

which covers up deeper feelings of inferiority. The neurotic feels embarrassed in society and knows he feels inadequate.][1]

Adler is attempting to characterize psychically the "typical" criminal, whatever may be embraced by the term. That such characterizations are too sweeping and general for empirical proof would be recognized by cautious scholars who cannot be led to accept an all-inclusive formulation of the direction that mental mechanisms and motivating forces take in the development of a criminal career or any other career.

Franz Alexander is somewhat more conservative in his application of psychoanalytic principles, since he makes very definite separations in cases. He intimates that psychoanalytic explanations of criminal behavior are most applicable in cases where the behavior appears to be entirely irrational and "cannot be explained by the motives that ordinarily induce individuals to violate the law."[2] In fact, he was prompted to make his more recently published study by cases which showed persistent unimprovement after child guidance methods of investigation and treatment apparently got nowhere. Elsewhere Alexander, in listing the types of criminals, infers that there is merely one class of offenders in which the etiology is predominantly psychoanalytic. His classification of offenders is as follows:

A. Chronic criminals
   1. The neurotic criminal, showing intra-psychic conflict and psychological etiology
   2. The normal criminal, who identifies himself with criminal types and shows a sociological etiology
   3. The criminal determined by pathological processes of an organic nature, showing biological etiology

B. Acute criminals, determined by special circumstances and not likely to repeat.[3]

The high points of Alexander's application of psychoanalytic principles to the study of crime causation are summarized in the following statements:

The only difference between the criminal and the normal individual is that the normal man partially controls his criminal drives and finds outlets for them in socially harmless activities. This power of controlling, and of the domestication of the primitive unsocial tendencies is acquired by the individual as a result

[1] ADLER, ALFRED, "The Roots of the Criminal Pattern," *The Police Journal*, Vol. 17, p. 5, New York, 1930. Brackets contain summary of Adler's points.

[2] ALEXANDER, FRANZ, and WILLIAM HEALY, *Roots of Crime*, p. 8, New York, 1935.

[3] ALEXANDER, FRANZ, and HUGO STAUB, *The Criminal, the Judge and the Public, A Psychological Analysis*, translated by Gregory Zilboorg, pp. 53–54, 145–150, London, 1931. By permission of George Allen & Unwin Ltd., publishers.

of education. In other words, criminality, generally speaking, is not a congenital defect but a defect in the bringing up.

Both the neurotic and the criminal fell victims to their incapacity of finding a socially acceptable solution of the conflicts which the relationships to the various members of the family engendered. The neurotic expresses symbolically by means of his symptoms, which are socially innocuous, the same things which the criminal does by means of real actions.[1]

The universal basis of criminal inclinations is the instability in the psychological balance between social restrictions and gratifications. [Some of the cases studied gave] insight into the lack of confidence in oneself and also a disinclination for the continuous and systematic efforts that are necessary in a self-supporting scheme of life. [This receptive attitude or trend is an infantile phenomenon—the young child never outgrowing his dependence on parents (fixation) and sometimes frequently returning to it after external failures (regression). The three factors in the causation of this fixation or regression to infantile dependence are early intimidations resulting in or accompanied by fear and senses of guilt, spoiling in childhood, and early childhood deprivations resulting in behavior of protest. All these factors are found in the cases of psychoneurotics but the main difference in the developmental history of psychoneurotics and criminals is the greater emphasis in criminals on certain conscious and rational motives.] In neurosis the emotional conflict results in symbolic gratifications of unsatisfied urges, whereas in criminal behavior it leads to overt misdeeds.[2]

By way of illustration of the application of psychoanalytic principles to special cases studied by Alexander, the main interpretations in two instances are presented. In the case of Richard Vorland, twenty, with a considerable history of stealing, four unconscious motives were found to be behind his criminal misdeeds: overcompensation for a sense of inferiority, the attempt to relieve a sense of guilt, spite reactions toward his mother, and direct gratification of dependent tendencies in a carefree existence in prison.[3] In the case of Sigrid Amenson, a girl who is a chronic shoplifter and apparently one who cannot desist, the urge is to do something dangerous and forbidden. She wants something "not obtainable otherwise than by stealing." Sex was found to be the worst offense, but "with much less pricking of conscience she steals," "Her remarkable acquirement and collecting of pocketbooks is evidently based upon the symbolic meaning of these articles" (the female genital organs). In explaining her compulsion to steal, Alexander contends that "she has underlying desires to love where she hates and hate where she loves; she wants to be utterly feminine and yet reaches out for the

[1] *Ibid.*, pp. 35, 40–41.

[2] Reprinted from *Roots of Crime*, by Franz Alexander and William Healy, pp. 279, 284–288, New York, 1935, by permission of and special arrangement with Alfred A. Knopf, Inc., authorized publishers. Brackets represent my condensations.

[3] *Ibid.*, pp. 16–76.

masculine role. Such an essentially unintegrated personality is almost necessarily predisposed to compulsions." Furthermore, she was found to have an urge toward self-punishment and it was contended that her stealing activities actually relieved her sense of guilt in reference to other behavior.[1]

Insofar as psychoanalysts in their interpretations of crime have called attention to motivations, mental conflicts, and mental mechanisms that are reasonably apparent in cases, they have made a contribution. But when they proceed to fabricate the complexities of motivations, conflicts, and mechanisms, they become fanciful, transcending the realms of visible proof and validation. The more demonstrable motivations and processes undoubtedly have important value in the causative explanation of some cases of offenders, but clearly no general formulation can be erected to cover all cases or even a large number of the general run of cases. For example, the formulation that differentiates criminals from neurotics is too general and sweeping to be valid. Limited and careful usage of the principles of frustration, escape, mental conflict, protest, compensation, fixation, regression, and so forth will prove valuable in causative analysis as well as in the treatment of certain cases.

Other Systems of Motivation as Applied to Delinquent Behavior

Psychoanalysis, while serving to bring to the fore the importance of the dynamics of motivation, has not been the only field emphasizing motivating forces in the study of behavior problems. Psychiatry, psychology, and sociology have used from time to time various systems of motivating forces. Two nonpsychoanalytic interpretations of delinquent behavior in terms of motivation will be described.

The first is that developed by W. I. Thomas. He contended that human motives could be reduced to four basic types of wishes: new experience, response, recognition, and security. This system of motivation is based upon organic needs as found in the physiology and chemistry of the body and upon the existing social values of a society toward which desires are directed. In certain concrete wishes the organic base seems apparent; in others, not apparent. This means that the specific wish is generated for the most part externally by the social situation and the social values or desiderata defined by the situation for the person. Hence, Thomas's system of motivation is sociological or social psychological. The wishes of Thomas's formulation are for the most part conscious.

In applying his formulation of motives to delinquent behavior, Thomas indicated that there are several relationships in which wishes stand to delinquent activity. In the first place, individuals turn directly

[1] *Ibid.*, pp. 77–123.

to delinquency or stumble into it in order to get their wishes satisfied. Secondly, they may resort to delinquency as a result of blockages in the satisfaction of wishes in normal channels—more or less as compensation or behavior of protest. Thirdly, failure to get the wishes satisfied in some measure often results in extreme unrest and demoralization. Fourthly, concrete wishes of the same class or type may have a totally different moral quality, depending on the modes of realization. Fifthly, the predominance of any type of wishes in persons depends, Thomas thinks, on temperament, which in turn represents the chemical organization of the body. Lastly, the expression of wishes is influenced by the ordinary devices of control and regulation in society, such as gossip, approval, and punishment.[1]

While there is nothing fanciful about Thomas's formulation, he merely gave illustrations to show how wish satisfaction is related to behavior and by implication assumed that various phases of wish satisfaction are involved in delinquent behavior. It is impossible to tell whether this or that course of wish realization is involved in all or merely some cases of offenders. One does not know how to differentiate delinquent from nondelinquent according to the course of their wishes. And one cannot tell what role the course of motivation plays along with or to the exclusion of other causative factors.

The second important nonpsychoanalytic interpretation of the motivating forces behind delinquent behavior, which will be presented, is that formulated by Healy. He contended that delinquent behavior is "a response to inner and outer pressures," *i.e.*, a form of self-expression. Interferences with the ordinary satisfaction of wishes by thwartings and deprivation lead to substitute satisfactions as a means of offsetting dissatisfactions. The direction and form that substitute satisfactions will take depend on circumstances.

He amassed evidence to show that when individuals have no intense feelings of inadequacies, thwarting, and deprivations, they are better able to find substitute satisfactions in socially acceptable channels of activity—a fact that was much more characteristic of nondelinquents than of delinquents. The former displayed more satisfying human relationships even under adverse family situations than did the delinquents. The latter were much more lacking in restraining social ties and ideals than were the former. Their feelings about the wrongfulness of behavior, which are ordinarily acquired in human contacts and social training, were not strong enough to check delinquency without the stabilizing influence of restraining social ties. Their superegos, or consciences, were impotent.

[1] THOMAS, WILLIAM I., *The Unadjusted Girl*, pp. 1–69, Boston, 1923.

Interferences with the satisfaction of wishes are accompanied by inner stress or emotional discomfort, which constitutes an index of the gravity of obstructions. Healy discovered that in 105 delinquents and 105 nondelinquent siblings, intensively studied, 91 per cent of the former and only 13 per cent of the latter were found to have profound emotional disturbances. Hence, he concluded that the delinquents were ever so much more characteristically unhappy, distressed, and disturbed, an emotional state representing the principal below-the-surface causation of delinquency—providing the motive power to seek substitute satisfactions which lead to delinquency. Included under the emotional disturbances, which were the concomitants of obstruction in and interferences with wish satisfaction in human relationships, were feelings of inferiority and inadequacy, feelings of being rejected and thwarted, disturbances about family discord, persisting sibling jealousies, mental conflicts, and guilt feelings.[1]

Whether the differential emotive forces as found by Healy to characterize the life histories of delinquents and to explain their course of delinquent behavior will stand the test of further investigations is a matter of conjecture, since these findings depended so largely upon the particular interest in case content and the particular methods of case interviewing and investigation employed. The question is whether other control-group studies, based on qualitative analysis of cases, would substantiate Healy's findings. All that one can say at present is that unsatisfactory fulfillment of wishes and associated emotional distress should plausibly be expected to constitute an important cause of crime and delinquency.

Conclusion

From our review of the researches on the biological and mental factors in crime, there is no patent reason to believe that heredity plays a discernible role in the production of crime, even if we admitted with Lenz that a prepotent inadequacy or reduced ability for making social adjustments could be biologically transmitted. There is no valid scientific justification for contending that a combined mental and physical constitution makes persons prone to become criminal, although various physical and mental difficulties might place a severe handicap on persons in ordinary social situations. The contentions of the endocrinologists have not been validated, although glandular disorders might in some instances represent important causative factors in crime.

Feeble-mindedness and insanity can no longer be considered frequent or even important causative factors in crime. Psychopathic personality is no more admissible as a causative factor than the concept of criminal

[1] Healy and Bronner, *op. cit.*, pp. 3–11, 49, 121–122.

constitution, and suffers from about the same invalidities of proof as the criminal constitution. There is some justification—not any too well validated—for believing that failure to obtain adequate satisfaction of wishes, accompanied by severe emotional stress, comprises an important motivating force in crime.

What future research may do in making further eliminations, refinements, and validations of the biological and mental factors in crime cannot be forecast. But with the present status of knowledge, we know more about the invalidities than about the validities of claims for the biological and mental determinations of crime.

CHAPTER XII

SOCIOLOGICAL AND ECONOMIC FACTORS

While much criminological research has called attention to the operation of biological and psychological factors in criminal behavior, just as much, if not more, effort has been made to indicate how the situational factors are conducive to crime and delinquency. Such factors have often been referred to as environmental factors. However, it will be necessary to limit these environmental factors to what might be included under the social environment, because of the paucity of recent studies that have attempted to relate human conduct to the physical environment, such as climate, seasons, temperature, barometric pressure, and soil. From older researches which attempted to relate crime to conditions of the physical environment, it became apparent that the factors in the physical environment were for the most part indirect in their influence on behavior, such as crime. If they operated at all, they operated by influencing density of population, promoting isolation or contact of individuals, determining to some extent the institutions and the economic order of peoples. But even the bearing that conditions of the physical environment have on community, family, or societal life is so much a matter of speculation and unconfirmed claim that the still more indirect effect on individual conduct within a social or cultural framework is a matter that must be put aside until much more definite knowledge of the workings of physical environment on human society and human conduct is obtained. Furthermore, there is good justification for believing that cumulative civilization, climaxing in what is called advanced civilization, surmounts, if it does not largely override, the operation of physical environmental influences. Some authorities go so far as to claim that modern technology places the physical environment more at the mercy of man than physical environment has man at its mercy. Consequently, for the time being, the environmental factors in crime need to be sought in the social environment—in the situations confronting individuals—rather than in the physical environment.

Of the great variety of research and study on the relation of crime to situational conditions, only the most fertile spots will be cultivated in this discussion. It appears that the studies relating crime and delinquency to family and community conditions, to associated life in special circumstances, and to economic conditions, comprise the bulk of the best insights into the situational causes of antisocial behavior.

The Broken-home Factor

The importance of disturbed family relationships in causing delinquent behavior has been recognized in many studies. However, the exact way in which various family conditions affect delinquent behavior is still not known. Much attention has been given the factor of broken homes in the production of delinquency. Breckinridge and Abbott, covering the family data in the records of over 14,000 children in the juvenile court of Chicago from 1899 to 1909, found that 34 per cent of the cases came from broken homes (31 per cent of the boys, 47 per cent of the girls).[1] In the American juvenile court statistics collected by the Children's Bureau, 33 per cent of the boys and 52 per cent of the girls came from broken homes in 1927, while 29 and 48 were the respective percentages in 1928.[2] A special comparison of the records in 30 juvenile courts in the United States showed 28.5 per cent of the cases came from broken homes in 1929, while 29.9 per cent were so reported in 1934.[3]

The institutional cases—those sent to correctional schools—appear to show a higher percentage coming from broken homes than do the juvenile court cases. The reason is that a child who is delinquent and comes from a broken home has more chance to be sent to an institution for custodial care than a child who is merely delinquent. Then, too, the cases in institutions would tend to be more serious and show more social complications (broken homes included) than the "mine-run" cases before juvenile courts.

Reviewing the statistics on 7,598 children in correctional schools in 31 states of the United States (as of 1910), Shideler found that 50.7 per cent came from broken homes.[4] He also cited that 55.5 per cent of delinquent boys in reform schools in England and Scotland, as of the 1895 report, were recruited from broken homes.[5] The commitments to American juvenile correctional institutions during the first six months of 1923 revealed that 51.7 per cent came from disrupted families.[6]

There is some merit to the contention that delinquent girls usually show a higher percentage from broken homes than do delinquent boys

[1] Breckinridge, Sophonisba P., and Edith Abbott, *The Delinquent Child and the Home*, p. 91, New York, 1912.

[2] U. S. Department of Labor, Children's Bureau, *Juvenile Court Statistics* 1927, no. 195, p. 9, Washington, D. C., 1929; *Juvenile Court Statistics* 1928, no. 200, p. 11, Washington, D. C., 1930.

[3] U. S. Department of Labor, Children's Bureau, *Juvenile Court Statistics* 1934, no. 235, p. 25, Washington, D. C., 1937.

[4] Shideler, Ernest H., "Family Disintegration and the Delinquent Boy in the United States," *Journal of Criminal Law and Criminology*, Vol. 8, p. 713, 1917–1918.

[5] *Ibid.*, p. 716.

[6] United States Census, *Children under Institutional Care* 1923, p. 323, Washington, D. C., 1927.

and that correctional school cases have a higher proportion from broken homes than do juvenile court cases, all of which probably means that the broken home is more a selective than a causative factor. But from the figures quoted there is no indication that the incidence of broken homes is greater among juvenile offenders than among nondelinquents or in the general population. Shideler estimated that the proportion of broken homes among correctional school cases was twice as high as the estimate for broken homes in the general population of the United States in 1910—50.7 per cent as compared with 25.3 per cent.[1] Slawson compared the delinquent boys in four correctional institutions of New York State with children in three New York City public schools and found that 45.2 per cent of the former and 19.3 per cent of the latter came from homes in which the mother, the father, or both had died, or in which the parents were separated or divorced.[2] He claimed that the percentage difference between the reform school boys and school children in regard to broken homes was statistically significant, *i.e.*, could not be explained by chance. In Slawson's study it is doubtful whether the pupils in the three selected public schools represent a fair comparative group for the reform school cases because of different age and nationality concentrations, which would materially affect the differential percentage of broken homes.

Cyril Burt in studying English juvenile delinquents according to a detailed case method found that the average number of defective home conditions in the families of delinquent children was 131 per 100 cases; in the families of nondelinquents, 35 per 100 cases in his sample.[3]

Studies of young adult parole cases from the Massachusetts reformatory by Sheldon and Eleanor Glueck revealed that 60 per cent of the male and 58 per cent of the female cases were found to come from broken homes, as compared with the finding in a careful statistical study of Chicago in which only one-seventh of the homes in the general population were broken.[4] If, in addition to the broken homes, cases are included whose parents were present but gave no adequate supervision, the percentage of abnormal homes is brought up to 84 per cent in the male cases and 90 per cent in the female cases.[5]

On the other hand, Shaw and McKay, by methods which appear to overcome shortages in earlier studies, found that juvenile offenders came from broken homes only slightly more than did school children in Chicago. They took personal interviews on several thousand boys ten to seventeen

[1] SHIDELER, *op. cit.*, pp. 713, 717.

[2] SLAWSON, JOHN, *The Delinquent Boy*, p. 354, Boston, 1926.

[3] BURT, CYRIL, *The Young Delinquent*, p. 62, New York, 1925.

[4] GLUECK, SHELDON, and ELEANOR T. GLUECK, *Five Hundred Criminal Careers*, p. 116, New York, 1930; *Five Hundred Delinquent Women*, p. 71, New York, 1934.

[5] *Ibid.*, p. 117, 1930; *ibid*, p. 71, 1934.

years of age in twenty-nine public schools of Chicago—schools located in areas that covered the entire range of male juvenile delinquency rates in areas of Chicago. No relationship was found between the rate of juvenile delinquency in the areas and the proportion of broken homes among the schoolboys of the areas. In fact, areas of lowest delinquency rates had about the same range in proportion of broken homes as the areas of higher delinquency rates.

However, Shaw and McKay did find that broken homes were more obviously a condition associated with delinquent boys than with schoolboys in the younger ages and in the socially disabled national and racial groups. With the ratio of the percentage of broken homes among the delinquent boys to the percentage among schoolboys standing at 1.18 to 1 for the total Chicago sample, the ratio was 1 13 to 1, 1 15 to 1, 1 30 to 1 for Italian, white American, and Negro boys, respectively.[1] The ratios of delinquent boys to schoolboys by various ages for amount of broken homes were found to be as follows:

Age	Ratio of the Proportion of Broken Homes of Delinquent Boys to Schoolboys[a]
10	1 87.1
11	1 31·1
12	1 22.1
13	1 20·1
14.	1 22·1
15	1 11 1
16	1 16 1
17	1 09 1
Total	1 18 1

[a] SHAW, CLIFFORD R., and HENRY D MCKAY "Social Factors in Juvenile Delinquency," National Commission on Law Observance and Enforcement, *Report on the Causes of Crime*, no 13, Vol 2, p 277, Washington, D C, 1931

The relationship to age seems to indicate that the older the boys, the less the difference, and the younger the boys, the greater the difference between delinquent and nondelinquent in regard to broken homes. In other words, it may be suspected that broken homes play a greater part in the lives of younger than of older delinquents. However, it is not clear whether this means that broken homes are an important causative factor of delinquent behavior or that young children from broken homes are more liable than other children to be referred to courts. At any rate, Shaw and McKay came to the conclusion that it is not so much the break in family membership as the cumulative effect of internal tension and discord that operates as a causative factor in delinquency.[2]

[1] SHAW, CLIFFORD R., and HENRY D MCKAY, "Social Factors in Juvenile Delinquency," National Commission on Law Observance and Enforcement, *Report on the Causes of Crime*, no 13, Vol 2, p. 276, Washington, D. C., 1931.

[2] *Ibid*, p. 285.

Number of Children and Sibling Position

Besides the question of the importance of a break in the family unit as a causative factor in delinquency, there are several other types of family conditions that have been suspected of being related to delinquency. For example, attempts have been made to relate delinquency causation to size of family, sibling position, unsatisfactory parent-child relationships, demoralized home conditions, lack of discipline and control over children, and economic inadequacy.

Various evidence pointing to the relation of delinquency to size of family or number of children has been inconclusive. Theoretically, the larger the family, the more difficult it is to support and to supervise; consequently, children are neglected and get into trouble. But this contention does not obtain for rural and small-town families. It might apply to lower class urban families, which usually have a higher birth rate and a larger number of children than upper class urban families. However, the evidence is contradictory and no valid differential between size of delinquents' families and nondelinquents' families has been established and no clear direct causation has been worked out between size of family and delinquent behavior, *i.e.*, without a host of complications and factors intervening between both.[1]

Sibling position in the family has become a matter of concern. The New York Crime Commission discovered that the second child in the family committed the most severe crimes, the next to youngest child was least likely to be delinquent, the youngest child was less likely to be truant than his older brothers but more likely to commit offenses than the next to youngest.[2] In view of the small number of cases and the prevalence of immigrant families in the sample, the results of this investigation cannot be taken as reliable. Using excellent matching procedure in order to get a comparable group, Sletto found that there was no marked difference between the number of only children in the total delinquent group and in the matched nondelinquent group of Minneapolis children. Delinquent boys who were only children were found not to differ from other delinquent boys in types of offense. However, delinquent girls who were only children were found to be much lower in sex and higher in stealing offenses than delinquent girls with siblings.[3] In another careful study of delinquent and nondelinquent children of

[1] See Reckless, Walter C., and Mapheus Smith, *Juvenile Delinquency*, pp. 122–123, New York, 1932.

[2] The Crime Commission of New York State, *Crime and the Community*, prepared by Harry M. Shulman, p. 23, Albany, N. Y., 1930 (which summarizes findings from the Commission's study *From Truancy to Crime, A Study of* 251 *Adolescents*).

[3] Sletto, Raymond F., "Delinquency and the Only Child," *Sociology and Social Research*, Vol. 18, pp. 519–529, 1933–1934.

Minneapolis who were matched for age, sex, and size of sibship (total number of children in the family), the problem was to find what sibship configurations and combinations might be more prevalent for delinquent than for nondelinquent subjects. The percentage of delinquent children falling in various age levels and in various sibship combinations was compared with the percentage of nondelinquent children falling in the same age levels and sibship combinations, and a ratio of the former to the latter percentage was computed, which ratio was called the delinquency ratio.

In general, delinquency ratios were high for children who are in sibling positions involving the presence of young siblings of each sex, and low for children in positions involving the presence of elder siblings of each sex.

Boys		Girls	
Position	Ratio	Position	Ratio
(M) M F	72	(F) F M	72
F (M) M F	79	M (F) F M	79
M (M) M F	86	F (F) F M	88
M F (M) M F	111	F M (F) F M	110
M F (M)	117	F M (F)	137
M F (M) M	125	F M (F) F	57[a]
M F (M) F	155	F M (F) M	191

[a] Sletto thinks this irregularity of a low ratio at a place where a high one should be expected might be due to the very small number of cases which fell into this particular sibship combination.

For boys located in sibships where all other siblings are of one sex the ratios are strikingly similar except in the case of boys in the position M (M) M. We note further that delinquency ratios are consistently higher for girls in sibships where all siblings are sisters. This suggests that girls who have brothers only may absorb traits which are in the behavior pattern characteristic of boys.

Boys		Girls	
Eldest positions		Eldest positions	
M (M)	92	F (F)	54
F (M)	92	M (F)	100
Intermediate positions		Intermediate positions	
M (M) M	184	F (F) F	85
F (M) F	94	M (F) M	103
Youngest positions		Youngest positions	
(M) M	90	(F) F	100
M F	92	(F) M	158

One might expect that boys located in sibships where all other siblings are girls would have lower delinquency ratios than boys located in sibships where all other siblings are boys. The very high delinquency ratio for intermediate boys in all boy sibships is in keeping with such expectation, but the ratios for eldest and youngest boys in such sibships are not high. It is possible that boys are typically in a dominant position in intra-sibship interaction, and that this brings about considerable acquisition of masculine behavior traits by girls in sibships

where all other siblings are boys, and little acquisition of feminine behavior traits by boys in sibships where all other siblings are girls. A further possibility is that interaction outside of the sibship in boys' play groups is more important in the formation of personality traits among boys than is interaction outside of the sibship in the case of girls.[1]

Sletto suggests by way of explanation for the differences in delinquency ratios that the roles that children develop in intrafamily interaction, which may in turn be partly determined by sibship position, very likely shape the personality and behavior of children. "Delinquency involves non-conformity to cultural standards, such non-conformity may be more frequent among children who play certain roles in intra-sibship interaction than among children who play other roles."[2]

Unsatisfactory and Demoralized Homes

Unsatisfactory parent-child relationships have been considered an important factor in behavior problems of children. And in child-guidance clinic studies of predelinquent and delinquent subjects such family relationships are often visibly connected with behavior of protest or with behavior which on the outside of the family circle compensates for uncomfortable situations at home. What seems to be important are the tension, conflict, discord, and unfavorable status the child lives under in the family. But just how extensive is this factor which is related to the intrafamily interaction between parents and children is not known and to what extent parent-child discord is more characteristic of delinquent than of nondelinquent children is, likewise, not known. Using cases in Marion County, Ind. (Indianapolis), Bushong claimed that the ratio of delinquents produced by abnormal homes was three times as great as that produced by normal homes, due to estrangement influences.[3]

From a detailed study of 153 juvenile offenders of fairly serious proportions—a study in which family situations in reference to behavior was one of the paramount interests, Healy and Bronner found that in only 20 per cent of the cases could the family relationships be considered reasonably satisfactory. There was a marked dislike for school, father, or mother in 75 per cent of the cases. Unhappiness and emotional disturbances, resulting partly from inimical family relationships and conditions, were found clearly evident in 92 per cent of the 143 children accepted for treatment. For example, by problem count there were 53 cases that showed "feelings of being rejected, unloved, or insecure in

[1] Sletto, Raymond F., "Sibling Position and Juvenile Delinquency," *American Journal of Sociology*, Vol. 39, pp. 665–667, 1934.

[2] *Ibid* p. 669.

[3] Bushong, E. M., "Family Estrangement and Juvenile Delinquency," *Social Forces*, Vol. 5, pp. 79–84, 1927.

affectional relationship"; 43, "emotional disturbance about family disharmonies, discipline, etc."; 43, "great persisting sibling jealousy or rivalry."[1]

The presence of demoralizing conditions in the home, such as alcoholism, immorality, and criminality, has been cited as having an important bearing on child behavior. In his first causative factor analysis of delinquency cases, Healy found that out of 823 subjects there were 157, or 17.9 per cent, in which alcoholism, immorality, and criminality among family members could be considered as related to the delinquency of the children and 28 cases, or 3.4 per cent, in which an immoral home environment was related to the misconduct of the children.[2] In a much larger sample of Chicago and Boston cases, Healy and Bronner found that alcoholism, immorality, and criminality were present in 21 per cent of the subjects studied.[3]

An early study of a selected sample of juvenile court boys' cases in Chicago (1903–1904), made by Breckinridge and Abbott, revealed that 18 per cent of the boys came from homes in which habitual drunkenness was present. Of a small sample of Chicago delinquent girls from the training school, 20 per cent had drunken fathers; 6 per cent, drunken mothers; 17 per cent, vicious, immoral, or criminal fathers; 10 per cent, vicious, immoral, or criminal mothers; 8 per cent, other family members so classified.[4]

In their recent detailed study of 133 families of delinquent children, Healy and Bronner pointed out the following pertinent counts: in 20 per cent of the families, a parent had a court record; in 26 per cent, "parent heavily alcoholic" (in all but 2 cases, the father); in 13 per cent, "father's interests (aside from alcoholism) poor or vicious."[5]

Of a sample of young adult male parole cases from the Massachusetts Reformatory, 52 per cent had families in which one or more of the parents, brothers, and sisters showed court records prior to the time the parole subjects had been imprisoned. Further investigation of the family condition of these young men indicated that an additional 29 per cent of the families showed the presence of drunkenness and immorality of members but with no official arrest record for these visible violations of family decency.[6] Of a sample of female parolees from the Massachusetts

[1] HEALY, WILLIAM, and AUGUSTA F. BRONNER, *New Light on Delinquency and Its Treatment*, pp. 47–49, 52, New Haven, 1936.

[2] HEALY, WILLIAM, *The Individual Delinquent*, p. 134, Boston, 1915.

[3] HEALY, WILLIAM, and AUGUSTA F. BRONNER, *Criminals, Their Making and Unmaking*, p. 126, New York, 1926.

[4] BRECKINRIDGE and ABBOTT, *op. cit.*, p. 106.

[5] HEALY and BRONNER, *New Light on Delinquency and Its Treatment*, p. 28, New Haven, 1936.

[6] GLUECK, SHELDON, and ELEANOR T. GLUECK, *Five Hundred Criminal Careers*, p. 111, New York, 1930.

Reformatory, 81 per cent possessed families one or more of whose immediate members (parents, brothers, sisters, exclusive of the subjects) were delinquent or criminal: 46 per cent, in which parent or sibling had been arrested; 31 per cent, in which parent or sibling while not actually arrested would likely be; 4 per cent, in which a near relative with whom the girls were in frequent contact was delinquent. There were 19 per cent in which no delinquent condition in the families could be found.[1]

A special study of the moral standards of this sample of female parolees in the childhood period gave the following ratings: 21 per cent good (meaning that the families were thrifty, temperate, wholesome, and showed no moral laxity or delinquency); 31 per cent fair (meaning that the families were not thrifty, temperate, or wholesome, were morally lax, but showed no delinquency among members); and 48 per cent poor (meaning that the families showed antisocial and delinquent habits in their members). While 48 per cent of the families of these girls were rated poor in moral standards for the childhood period, 55 per cent were rated poor for the adolescent period.[2] It should be realized that these ratings of moral standards of the families and enumerations of delinquent members are, at best, mere listings of conditions present in the social background of the cases that were studied by schedules to indicate presence or absence of various conditions. The enumerated information does not represent the incidence in which such and such factors were considered causative factors in the production of delinquency by the clinical analysis of each separate case.

Using the causative factor analysis in case studies and making comparisons with nondelinquent children, Burt found that his sample of English delinquents came from vicious homes (immorality, irregular unions, drunkenness, vicious conduct, criminal encouragement) over five times more frequently than did nondelinquent children.[3]

A small sample study of adolescent offenders in New York revealed in general that family criminality—*i.e.*, the number of other members in the family arraigned for violations of law per case—on an average increased with the seriousness of the offense of adolescents. For truancy cases the ratio of family criminality was found to be 0.43; for ordinary delinquency cases, 0.50; for misdemeanor cases, 0.66; for felony cases, 0.83.[4]

The assumption is too often made that because alcoholism, immorality, or criminality is present in the current family situation they must

[1] GLUECK, SHELDON, and ELEANOR T. GLUECK, *Five Hundred Delinquent Women*, p. 73, New York, 1934.

[2] *Ibid.*, p. 72.

[3] BURT, *op. cit.*, p. 63.

[4] The Crime Commission of New York State, *Crime and the Community*, prepared by Harry M. Shulman, p. 24, Albany, N. Y., 1930.

have a direct bearing on the etiology of delinquency. It may be just as true as not that a child whose record shows vicious circumstances at home does not become delinquent through any direct bearing that these circumstances had on his personality or conduct and becomes delinquent from sources not connected with the presence of an alcoholic, immoral, or criminal member in the family. Many students of the relation of social situations to behavior have for some time recognized the point that it is not so much what surrounds the child but what he responds to in his surroundings that affects his behavior most directly.[1] In fact, the value of the child's own story in detailed case studies of problem or delinquent children is to discover just what in his "world" he did or did not respond to and how he responded.[2] As a result of their recent detailed inquiries at the point of the possible relation of various family conditions to delinquent behavior, Healy and Bronner assert by way of corroboration, that "the evil influences of any (family) item can only be established in terms of its meaningfulness for the individual child."[3]

The lack of supervision or control over children by parents has also been suspected of playing an important part in juvenile delinquency. Again, case studies of problem and delinquent children often show this glaring weakness. The lack of parental supervision results from many circumstances and conditions of family life—actual neglect, ignorance of parents, temperament or personality of parents, absence of parents from the home through employment of mother, desertion of father, etc. Burt found that his sample of English delinquents showed defective home discipline about 4.5 times more than did nondelinquents. The defective home discipline was broken down by Burt into indifference (no attempt at discipline), weak discipline due to moral or intellectual weakness, weak discipline due to physical weakness, weak discipline due to absence of parent at work, overstrict discipline, and disagreement about control of child.[4]

In their detailed study of 105 delinquent children and their nondelinquent siblings, Healy and Bronner discovered that there were 75 nondelinquents in the sample, coming from inimical family circumstances, which might throw light on the reasons why many—perhaps most—children, in spite of difficult home situations, do not become delinquent. Case analysis of these 75 cases who did not become delinquent, although one of their siblings did, showed that 6 of them were, through fortuitous

[1] RECKLESS and SMITH, *op. cit.*, pp. 218–219; WALTER C. RECKLESS, "Suggestions for the Study of Problem Children," *Journal of Educational Sociology*, pp. 158–159, November, 1928.

[2] SHAW, CLIFFORD R., *The Jack-Roller*, pp. 1–3, Chicago, 1930.

[3] HEALY and BRONNER, *New Light on Delinquency and Its Treatment*, p. 33, New Haven, 1936.

[4] BURT, *op. cit.*, p. 63.

circumstances, "out of the picture" when their sib mates developed delinquent behavior; 7 were so handicapped physically they could not very readily engage in delinquency; 11 had very strong counteracting interests or activities of a stabilizing nature; 10 had such outstanding traits as babyishness, reticence, nonaggressiveness, low energy, dependence—traits that kept them away from delinquent behavior; 22 were just quieter, less restless, and more easily satisfied children, making fewer demands on their environment; and 19 avoided delinquency apparently by establishing good adjustments to and finding satisfactions in school, social contacts, and recreation.[1]

Unverified Influence of the Family

That family influences and situations are very important factors in the production of delinquency and other forms of behavior is well recognized. However, it can only be said that research to date is on the track of uncovering the way family conditions determine delinquent behavior and has not arrived at the point where it can make positive pronouncements. Obviously, one cannot seize upon the mere presence of inadequate, disrupted, or discordant family situations to account for delinquent behavior in the child. It is necessary to have the data in each case to indicate just how the child was affected and how he responded to the total family situation. The family is not the same family for any two children living within it, and it is necessary to find out just what the family world of the delinquent child really was or is. Shaw developed a technique for uncovering the actual interactive and dynamic influence of the family on the child, which intrafamily interaction may not come out by ordinary case interviews and investigation. His technique involved getting the family group together, touching it off, and letting it go into action. In one published case in which he employed the family interview technique, the family on surface investigation appeared to be a well-organized, efficient family, but the family interview, revealing the characteristic roles and attitudes of one to the other, showed that the father, in attempting to impose his scheme of values on the boy, particularly made life at home rather unbearable for the child.[2]

A special study by the New York Crime Commission attempted to penetrate the reasons why one child in ostensibly the same family and neighborhood was delinquent and another child was nondelinquent. The study showed that there were obviously a differential response to and effect of home and community environment, but it was unable to

[1] Healy and Bronner, *New Light on Delinquency and Its Treatment*, pp. 87–88, New Haven, 1936.

[2] Shaw and McKay, *op. cit.*, pp. 285–341. Shaw first reported on the use and significance of the family interview in "Case Study Method," *Publications of the American Sociological Society*, Vol. 21, pp. 149–157, 1927.

point out specifically what constituted the differential apart from inconsequential differences in mental ability and school performance.[1]

Whether or not future research will uncover and demonstrate conclusively the existence of special characteristics in families which have delinquent members as contrasted with families which do not have delinquent members is difficult to forecast. What is perhaps still more likely to happen is that researchers into family determination of delinquency will be able to show more clearly just how family situations affect behavior of children and how children respond to them. Apparently, the studies that attempt to get at the child's world, the crosscurrents of interaction within the family, the cross-fertilization of attitudes of one on another, and the interplay of various roles, and the status of members within the family circle will be the ones that will be the most revealing. This does not mean that the entire burden of exposition will be placed on case studies. Well-worked-out statistical studies, making contrasts between family situations of delinquent and nondelinquent children, such as Sletto made, will be able to assist materially in isolating important focuses of attention for further cut-in studies.

It is clear, also, that the studies of family determinants in the etiology of crime have mostly concerned themselves with juvenile delinquency rather than with adult crime. Much less research has been done in the field of ferreting out the connection of family conditions with adult crime. The presumption is, of course, that family situations are important in adult criminal behavior. Whether they are as important in adult crime as in juvenile delinquency is not known. There is strong likelihood that there is a direct carry-over from family conditionings in childhood to adulthood in many cases. There is strong suspicion, also, that family tensions and discord do not necessarily decrease as persons pass from adolescence into adulthood. And there is no reason to believe that the family unit naturally should be expected to exert less influence in stabilizing mature persons than in controlling the destiny of immature persons. But how family status of the grownups acts differentially on criminal behavior as compared with the family status of ungrown individuals is not known so far.

The Companionship Factor

It has been a matter of common observation that much delinquent and criminal activity is an affair of association of two or more individuals. For many specific offenses, particularly the property offenses, partners

[1] The Crime Commission of New York State, *A Study of Problem Boys and Their Brothers by the Sub-Commission on Causes and Effects of Crime*, prepared by Harry M. Shulman, pp. 5, 11, Albany, N. Y., 1929. See pp. 75–408 of this study for detailed summaries of several cases.

in the deed are more or less expected. The New York Crime Commission discovered that 34, 37, 35, and 32 per cent of the cases in children's courts of New York City in 1922, 1923, 1924, and 1925 were arraigned in groups of three or more.[1] Shaw found that only 18 per cent of the boys taken to the Chicago Juvenile Court in 1928 were lone-wolf offenders, the overwhelming majority being involved with one or more companions. Twosomes were the most prevalent, while threesomes were almost as frequent. The percentage of lone-wolf boys involved in stealing offenses was still lower (only 11 per cent) than those involved in offenses in general. Again, twosomes and threesomes were the mode.[2]

The more innocent play life of boys, especially those roaming the streets of city slums, may start as a game or merely as rousting about and end as delinquency. On the other hand, the patterns and traditions of gang life may verge on antisocial behavior and finally merge into a form of organized crime for older boys. The distribution of the "hang-outs" of boys' gangs in Chicago corresponded to a large extent with the residential distribution of boy delinquents. In a detailed analysis of gang and companionship affiliations of a few sample cases, Shaw found that the individual boy's companions in delinquency were one or two special boys; all told, this constituted a closed criminal fraternity of usually short duration. In other words, a whole gang was not delinquent together, but rather members paired off in twosomes or threesomes in delinquent activity.[3] Elsewhere, Shaw has attempted to show the combinations, recombinations, continuity of personnel in companionship formations, in the delinquency activities of five brothers who had long histories in delinquent careers.[4]

Companionship has been considered not so influential or encompassing for girls as for boys—a fact often used to explain the much higher rate of delinquency for boys than for girls.

Case studies and life histories of juvenile offenders—in fact, most of the published ones—frequently reveal bad companionship as a causative factor in delinquency—a factor which apparently is more immediately related in point of time and direct influence with delinquent behavior than is any other factor, when it is visibly present in a case. However, its immediate connection with delinquent acts has never won it the place in the etiology of crime that it deserves. For example, Healy in his pioneer analysis of causative factors in 823 cases of delinquent children admitted the companionship factor as the major factor in only 44 cases,

[1] The Crime Commission of New York State, *Crime and the Community*, p. 135, Albany, N. Y., 1930; see, also, pp. 136–143 of this study for a discussion of the gang factor in delinquency.

[2] SHAW and MCKAY, *op. cit.*, pp. 195–197.

[3] *Ibid.*, pp. 200–221.

[4] SHAW, CLIFFORD R., *et al.*, *Brothers in Crime*, pp. 109–126, Chicago, 1938.

but found it to be a secondary factor in 235 more cases, or present in 279 cases, which represented 34 per cent of the total sample.[1] In a minor-factor role, companionship loomed high in Healy's causative analysis. Following Healy's pattern of study, Burt found bad companionship to be a major factor much less often than it was a minor factor. Although he found it present in 37 per cent of his case studies of London delinquent children, it was present in only 3 per cent of nondelinquent children used as a control group.

While it is undoubtedly true that not so many girls as boys become delinquent, the girls who do become delinquent are likely to have bad-companionship influences in their case histories just as much as boys. Indeed, Burt found bad-companionship factors in 37.4 and 36.7 per cent of his boys and girls cases, respectively.

It is also interesting to note that Burt broke down the companionship factor into several elements visible in his cases: bad companions of the same age (17.7 per cent), companions of the same age not actively bad (7.6 per cent), bad companions formed in institutions (4 per cent), molestation (2.5 per cent), corrupted by adult companions or strangers (2 per cent), and indulged by adult companions or strangers (3 per cent). Association at the child's own level, if we include the first three items under this category, comprises the bulk of the companionship influences in Burt's findings.[2]

In Healy and Bronner's detailed case studies of 105 delinquent children and 105 nondelinquent siblings of the same sex and nearest age, the following companionship findings were listed: 31 of the delinquents had been "definitely associating with criminal crowds"; the majority of the remainder had delinquent fellowship of one or two companions; 16 delinquents had few or no friends, *i.e.*, were solitary in interests as well as in delinquency; only 11 of the nondelinquents were gregarious, *i.e.*, participated in gang groups; 23 avoided companionship as a way to keep out of trouble; and a considerable number of the nondelinquents satisfied themselves with home pursuits that did not involve street companionship.

Atwood and Shideler studied the participation in various social groups of 100 delinquent boys from the Indiana reformatory and of 100 nondelinquent boys, matched for age, color, and nativity. The results indicated that delinquent boys have a greater degree of group participation than do nondelinquent boys—a finding which still holds true when age, broken home, and city environment are held constant. Apart from the mere gang participation, the study suggests that delin-

[1] HEALY, WILLIAM, *The Individual Delinquent*, p. 130, Boston, 1915.

[2] BURT, *op. cit.*, p. 125.

[3] HEALY and BRONNER, *New Light on Delinquency and Its Treatment*, pp. 63–64, New Haven, 1936.

quent boys, by having more social contacts than nondelinquent boys have, are in the position of being greater risks for getting into trouble and getting caught.[1] This substantiates Healy's finding, *viz.*, that nondelinquent children are nondelinquent, in part at least, because they are less gregarious, avoid the risks of companionship, and satisfy themselves more often with interests at home.

Still further evidence of the importance of the companionship factor in crime is supplied by the studies of Sheldon and Eleanor Glueck. In their analysis of the social-background data of 510 young male adult offenders from the Massachusetts Reformatory, it was found that 95 per cent of them had bad associates prior to the sentence for which they were committed.[2] The background data of 500 women offenders from the Massachusetts Reformatory indicated that 26 per cent (probably, much higher) of the women associated with harmful companions during childhood; 87 per cent, during adolescence; 97 per cent, during the year prior to commitment.[3] By "detrimental companions" in the adolescent and later periods of life in this latter study were meant streetwalkers, drunkards, "pickups," bootleggers, and persons known to the police as idlers. The fact that 95 and 97 per cent of male and female cases had bad companions prior to commitment indicates that, by the time a young adult becomes an offender of serious enough magnitude to be committed to the state reformatory in Massachusetts, his associates are likely to be criminal or pseudo-criminal. There is no way to tell from the Gluecks' studies how important the companionship factor is in the actual production of delinquency, as based on causative analysis of each case. All that is listed is a record of whether or not the cases had harmful associates.

Disreputable companionship lingered on to the extent of 44 per cent of the women's cases during parole supervision and jumped to 63 per cent in the postparole period when supervision was relinquished.[4] In a restudy of 454 of the 510 young adult male offenders, the Gluecks found that 95 per cent of them reported bad companions in the period prior to commitment; 69 per cent, in the first five years following expiration of parole supervision; 63 per cent, in the second five years.[5] Of the sample that reported harmful companions in the first five-year postparole period,

[1] ATWOOD, B. S., and E. H. SHIDELER, "Social Participation and Juvenile Delinquency," *Sociology and Social Research*, Vol. 18, pp. 436–441, 1933–1934.

[2] GLUECK, SHELDON, and ELEANOR T. GLUECK, *Five Hundred Criminal Careers*, p. 127, New York, 1930.

[3] GLUECK, SHELDON, and ELEANOR T. GLUECK, *Five Hundred Delinquent Women*, pp. 85, 87, 109, New York, 1934.

[4] *Ibid.*, pp. 214, 229.

[5] GLUECK, SHELDON, and ELEANOR T. GLUECK, *Later Criminal Careers*, pp. 317, 338, New York, 1937.

89 per cent still retained bad associates in the second five-year postparole period, while 8 per cent of those that reported harmless companions in the first period still retained harmless associates in the second period.[1]

Apart from the role that bad associates play in actually causing delinquent behavior, the Gluecks' data suggest that bad companions are likely to be an accompaniment of maturing criminal careers up to a certain point and are preserved as life lines for social living to a large extent during and after parole treatment.

Their data also indicate that the more mature and older offenders become, the less they are found to have accomplices in their crimes. Of the men arrested during the second five-year period, 57 per cent had no accomplices in the offense for which arrested; while 43 per cent of the cases had had no accomplices in the offense that had brought them to the Reformatory, prior to their parole.[2] Consequently, the Gluecks intimate that the longer men continue in crime, the more they become lone-wolf offenders. If this trend can be accepted and is not due to progressively more skilled evasion of apprehension, it may be that the tendency is for young offenders to have more companions in the deed than older offenders have, and that the aging or seasoning process in crime tends to eliminate partnership in crime. It might be assumed that those who do not work with others in a criminal deed are better able to survive in crime or are the unreformable offenders, while those who persist in teaming with others in criminal deeds are caught, taken out of circulation, cannot make crime pay, finally give up a criminal career, or do not possess the qualities to survive as lone-wolf offenders. Such considerations are pure speculations as yet.

There is, however, good reason to believe that the companionship factor materially assists the maturation of a delinquent career, certainly in its formative stages, and that up to a certain point it is important in the continuation in crime, in developing the techniques, attitudes, and motivation to continue and progress in crime. Companionship is undoubtedly one of the chief agencies, if it is not actually the chief agency by which criminal culture is grasped and a professional career in crime is incubated. Expressed negatively, it is one of the chief agencies, if not the chief one, which prevents immature offenders, *i.e.*, first-time and second-time young delinquents, from settling back into a law-abiding existence. Its role as perpetrator of continued criminal activity may be more important than its role as cause of first or early offenses. But present knowledge does not hold a definite answer to this question.

[1] *Ibid.*, p. 365.
[2] *Ibid.*, p. 75.

Contacts in Custody

Observations by offenders themselves as well as by institutional authorities lead one to expect that contacts formed in correctional and penal institutions and cultivated afterward outside the walls constitute one of the principle forces in recidivism and criminal maturation. It is doubtful whether any other point in criminological study has gained such widespread notice and general acceptance. Lombroso contended that "the pickpocket and cut-throat learn in prison, at the expense of the state, to make fake keys, to make counterfeit money, to engrave banknotes and to commit burglaries."[1] In describing the attributes of habitual offenders, Ferri pointed out that "detention in common corrupts them morally and physically"[2] Havelock Ellis quoted from the autobiography of a thief who was in an Australian jail for three months: "The instructions that I received during these three months considerably improved me in my profession. The Government had placed me in a position to learn a trade and having learnt it I was determined to work at it."[3] In his early work, Healy was very much impressed with the pernicious and contaminating effects of custodial experience.

> The most untoward effects of incarceration, those which have always impressed us greatly in our study of causes, are in the realm of psychic contagion. When offenders are thrown together the worst knowledge has been spread and a powerful stimulus has been disseminated towards antisocial conduct. Many a girl has testified to us that she learned more in the first twenty-four hours under custody than she knew in all her life before. Dozens of times we have known two young men, who were not acquainted with each other before incarceration, to meet after they had gained their freedom, and indulge together in further misdemeanors. We have never heard of a single case of a prison friendship being active upon the basis of mutual help towards better conduct.[4]

Reference has already been made to the observation by the Thomases that the congregation of children in correctional institutions has had unexpectedly bad consequences, due to the influence of the more sophisticated child on the less sophisticated child—an influence more telling than the effect of a bad adult character on a young person.[5] Ploscowe in his

[1] Lombroso, Cesare, *Crime: Its Causes and Remedies*, translated by Henry P. Horton, p. 114, Boston, 1918.

[2] Ferri, Enrico, *Criminal Sociology*, translated by Joseph I. Kelly and John Lisle, p. 146, Boston, 1917.

[3] From Joe Bragg's *Confessions of a Thief*, cited by Havelock Ellis in *The Criminal*, 3d ed. revised and enlarged, p. 231, London and New York, 1907.

[4] Healy, William, *The Individual Delinquent*, pp. 312–314, Boston, 1915. By permission of Little, Brown & Company, publishers.

[5] Thomas, William I., and Dorothy S. Thomas, *The Child in America*, p. 96, New York, 1928.

critical review of extant knowledge on the etiology of crime gives considerable space to the effect of institutional experience and criminal contacts on criminal behavior.[1]

While custodial contacts and friendships formed in penal institutions are important factors in the maturation of criminal careers and in recidivism, and help to explain continuation in crime, it is obvious that they cannot explain initial offenses.

[1] PLOSCOWE, MORRIS, "Some Causative Factors in Criminality," National Commission on Law Observance and Enforcement, *Report on the Causes of Crime*, no 13, Vol. 1, pp. 87–94, Washington, D. C., 1931.

CHAPTER XIII

SOCIOLOGICAL AND ECONOMIC FACTORS.—(*Continued*)

Attention has been called to the variation in crime by areas and regions and to societies of infrequent and frequent crime.[1] The basic sociological determinants behind all these community and societal differentials in volume and type of crime pointed to the presence or absence and extent of heterogeneity in population and culture, clash of conduct norms, invasion and impact from without, change and mobility, special traditions of lawlessness, emancipation of individuals from the established order, floundering of persons in a new and usually individualized scheme of life, and disruption of old institutional forms of living. All these ingredients, which overlap one another in cause and effect, are indications of the relative amount of social instability or community disorganization, and constitute a social frontage of risk for demoralization and crime of individuals exposed to these conditions.

Community Disorganization

American sociologists in their more general and formal attempts to explain the existence and aggravation of social problems have made much use of community disorganization as an all-embracing factor indicative of the weakening of institutional and primary-group influence over the lives and conduct of individuals. William I. Thomas probably more than anyone else is responsible for this emphasis on social and community disorganization in the explanation of behavior problems. According to Thomas's original formulation, social disorganization is the "decrease of the influence of existing social rules of behavior upon individual members of the group,"[2] and community disorganization, a phase of the former, includes "both decay of social opinion and decay of communal solidarity."[3] Thomas's norm for community disorganization appears to be the break in the cohesiveness of isolated, homogeneous, face-to-face groups, which were supposedly the characteristic type of community life from which modern society has emerged. But it should be realized that various states of organization and disorganization exist in communities of heterogeneous composition and secondary contacts.

[1] See Chaps. 3, 4, and 5.

[2] Thomas, William I., and Florian Znaniecki, *The Polish Peasant in Europe and America*, Vol. 4, p. 2, Boston, 1920.

[3] *Ibid.*, p. 48.

One of the obvious limitations in the application of community disorganization to the explanation of behavior problems lies in the fact that not all exposed persons are in turn disorganized and those that are disorganized are not affected in a uniform way. The personal equation must be discovered in order to explain why an individual remains untouched or is touched by the disorganized community situation. Thomas was mindful of this lack of one-to-one correspondence between social and personal disorganization but did not throw any definite light on the discrepancy.[1] It should be expected that more persons would violate the code in a disorganized community situation than in a cohesive one, because of greater opportunity to become demoralized.

Another difficulty in the application of community disorganization to the explanation of crime exists in the fact that the degree or amount of disorganization in any community at any time of study has heretofore been appraised qualitatively and has not been quantitatively known. The measure of total community or neighborhood disorganization must wait until sociometrics develop. In the meantime, it is nearly impossible to correlate the amount of total disorganization in any situation with the volume of crime.

The nearest approach to a composite picture of the extent of community disorganization as related to crime may be found in Shaw's study of delinquency areas. As has already been noted, he related concentration of delinquency cases in Chicago to concentrations in conditions such as adult crime, physical deterioration (condemned buildings), family dependency and desertion cases, industrial and commercial invasions, boys' gangs, declining population, foreign-born and Negro population groups. High concentrations of delinquency were found in areas of great physical deterioration, of declining population, of high incidence in dependency and desertion, of high concentration of adult crime and boys' gangs, of industrial and commercial invasions of former residential neighborhoods, and of densely settled foreign-born and Negro groups.[2] Areas of low delinquency concentration were practically free of these conditions.

Reckless likewise related the areas of high concentration in commercialized vice to declining population, disproportion of the sexes, low proportion of children, high proportion of adults, low proportion of home ownership (the last three indicative of unstable family life), high concentration of adult crime, venereal disease, and Negro population.[3]

[1] *Ibid.*, pp. 2–3, 48–49.
[2] See p. 73.
[3] See p. 69.

In reality, both Shaw and Reckless used indexes of basic socioeconomic conditions to indicate in turn the amount of neighborhood disorganization. Their results have a validity from common observation, *viz.*, that the neighborhoods of high indicated disorganization are recognized as the "badlands" or the "blighted areas" of Chicago. But their approach was one of using multiple indicators of disorganization rather than a single composite index. And it is not at all clear that any or all of the indexes used by them would qualify as satisfactory indexes of community disorganization.

While the amount of disorganization in a community is strongly suspected of having important bearing on the amount of crime and delinquency, adequate substantiation of the fact has not been made as yet. Community disorganization has been related to crime more by qualitative analysis than by quantative measure. The exact relationship and potency of the community-disorganization factor in crime are therefore not known.

Density and Overcrowding

Numerous sporadic efforts have been made to relate crime and delinquency to some special condition in a community. In fact, such efforts constitute the prevailing way by which the community factor in crime and delinquency has been investigated.

Density of population in urban neighborhoods has been considered a factor in the production of delinquency and crime, the thought being that the incidence is proportionately greater in thickly and smaller in sparsely populated areas. The assumption, further, has been that in densely populated sections of cities children get into difficulty because of being forced into roving street play and because of the inability of parents and neighbors to watch over their conduct.

In a study of the situation in Minneapolis and St. Paul, Elmer found that high area rates of juvenile delinquency were not related to high area rates of density of population and vice versa. He found several instances in which high delinquency rates were located in areas of comparatively low density. He concluded that "it is not density of population which is of great significance in juvenile delinquency, since we find that there is no significant coefficient of association between them, but rather the transitional zone area (slum sections), where the details of the individual's life do not definitely fit into the established group organizations and activities; where the details of the individual's life are lost in group activities, the nature of which is unknown to other members of his primary group."[1] Hence, from Elmer's study it appears that the

[1] Elmer, M. C., "Maladjustment of Youth in Relation to Density of Population," *Proceedings of the American Sociological Society*, Vol. 22, p. 140, 1926.

amount of disorganization, rather than density of population, in an urban area bears a close relationship to the extent of juvenile delinquency. Whether Elmer's findings can be generalized for most modern urban centers is a matter that must be settled by further research.

Overcrowded housing has likewise had a suspected relation to delinquency on the assumption that it makes family discipline and morality difficult to maintain and that it drives children into unsupervised street play. Many reform-minded persons have considered the relation of overcrowded housing conditions to delinquency and crime so apparent and so well established that they have proposed model housing projects as a means of preventing crime as well as many other associated problems.[1]

The New York Crime Commission saw no reason to contend that there was a direct relationship between the degree of overcrowded housing and the degree of criminality, although it did find evidence that housing congestion, as measured by the ratio of the number of persons in a family to the total number of rooms occupied by the family, was more characteristic of delinquent than of the general population.[2]

Burt, in his study of delinquency in London, found that 21 per cent of his delinquency cases while only 16 per cent of nondelinquents came from overcrowded homes. The proportion for the whole country was 11 per cent.[3] As his norm for overcrowding he took "a tenement with more than two adult occupants per room, two children under ten counting for this purpose as the equivalent of one adult."[4] Apart from the merit of Burt's norm, it is highly possible that the selection of his cases of delinquents might contain the explanation of why they showed a higher proportion of overcrowded housing conditions in their family-background records than the nondelinquent sample of children did. Comparing the percentage of overcrowded homes with the juvenile delinquency rates for various areas of London, Burt found a fairly high coefficient of correlation, *viz.* +.77.[5]

In his Minneapolis-St. Paul study, Elmer found a low coefficient of correlation of delinquency with overcrowded housing in the various areas. He made an intensive study on this point in one of the areas and discovered that "there was no more overcrowding in the homes from which delinquents came than in other homes in the community."[6] These

[1] See pp. 417–419.

[2] The Crime Commission of New York State, *Crime and the Community*, prepared by Harry M. Shulman, pp. 24, 28, 31, 162–163, Albany, N. Y., 1930.

[3] BURT, CYRIL, *The Young Delinquent*, p. 84, New York, 1925.

[4] *Ibid.*, p. 84.

[5] *Ibid.*, p. 74.

[6] ELMER, *op. cit.*, p. 140.

results are, therefore, quite contrary to the findings of Burt, and in the present state of knowledge it is impossible to say which of the two contrary conclusions should be accepted as indicative of the true relationship.

Many sociologists would be inclined to doubt any direct connection between overcrowding and delinquency, insisting that the scheme of family life, particularly the family conflicts and inadequacies, would be more likely to have direct bearing on behavior problems. In fact, it might be contended that behavior problems, as well as overcrowding in the home, issue from the actual pattern of family life rather than that overcrowding determines the specific content of family life and the behavior problems arising therein.

One could cite the overcrowding in many peasant homes and rural farm families, but one does not expect this situation to produce any noteworthy amount of official or even unofficial delinquent behavior. It may be that the pattern or condition of overcrowding tends to be associated more with disorganized family life among the lower economic levels of urban dwellers than with disorganized families in rural areas. If such is the case, it would support the notion that a disorganized scheme of family life among urban inhabitants is provocative of overcrowding living as well as problems of discipline and control.

Agencies of Moral Risk

Agencies or institutions of exceptional moral risk are frequently mentioned as important factors in the community determination of delinquency. Amusements of low moral tone, penny arcades, cheap dance halls, cabarets, saloons, pool halls, amusement parks, risqué theaters, gambling parlors, dens of vice, junk yards, and fences for receiving stolen goods have from time to time received citation for demoralization of young people. The investigations by the Juvenile Protective Association of Chicago, for example, from year to year have called attention to the demoralizing effect of places of moral risk, with the view of eradicating the bad conditions.[1] But, as in the instance of most such investigations, the problem is only singled out and no knowledge is gained of how extensive is the demoralizing influence or of the way by which the places of moral risk are specifically related to delinquent behavior.

Sociologists are aware of the fact that places of commercialized recreation, the "bright lights," emporiums of vice and gambling, criminal fences, and other criminal or pseudo-criminal haunts do help to demoralize some individuals. But just how much they demoralize and what sorts of persons they demoralize are questions not readily answerable in the present state of knowledge. For example, the Crime Commission

[1] See Reckless, Walter C., and Mapheus Smith, *Juvenile Delinquency*, pp. 326–327, New York, 1932.

of New York State, in analyzing in detail the background data of 145 male offenders admitted to reformatory and penal institutions of the state during August and September, 1926, found that in not more than five instances did these offenders participate in supervised and organized recreational and leisure-time programs. Their principal recreational interests had been in prize fights, cheap burlesque and vaudeville, pool rooms, low hangouts, and cheap club life.[1] The play life and leisure time of children in an area of highest delinquency rate in Brooklyn, N. Y., was found to be desultory and unorganized. In fact, it was discovered that organized recreational programs in this area reached only 10 per cent of the population under twenty-one years of age.[2] Such findings are in line with those of the *Cleveland Recreational Survey*, which was one of the first comprehensive studies of the relation of delinquency to the unguided use of spare time in cities. From a small but fairly typical sample of Cleveland juvenile offenders, it was discovered from case analysis that 76 per cent displayed a "clear relation" between delinquency and desultory leisure-time habits. On the other hand, analysis of a sample of "wholesome citizens" in Cleveland showed that 70 per cent had had recreational interests and activities guided by the precepts and supervision of parents, relatives, and teachers during the school-age period of life.[3] The Gluecks, in their studies of Massachusetts Reformatory men and women, found that unwholesome recreational interests not only loomed important in the background circumstances of criminal careers but also played an important role in postinstitutional relapse.[4]

The difficult etiological problem at this point has already been suggested: how to isolate the influence of desultory spare time and the lack of wholesome recreation in the production of delinquent and criminal behavior from the gravitation of persons already delinquent or incipiently predelinquent into unwholesome leisure-time activities.

An item, such as the presence of junk yards in a neighborhood, undoubtedly lends encouragement to some children and adults to loot and steal. And the closely allied criminal fences for the reception of

[1] The Crime Commission of New York State, *Individual Studies of* 145 *Offenders by the Sub-Commission on Causes and Effects of Crime*, prepared by Frederick A. Moran, pp. 17–18, Albany, N. Y., 1928.

[2] The Crime Commission of New York State, *A Study of Delinquency in a District of Kings County by the Sub-Commission on Causes and Effects of Crime*, prepared by Harry M. Shulman, p. 25, Albany, N. Y., 1927.

[3] THURSTON, HENRY W., *Delinquency and Spare Time*, The Survey Committee of the Cleveland Foundation, pp. 111–120, Cleveland, Ohio, 1918. Seventy-seven unduplicated cases out of a total sample of 124 juvenile offenders, contained in groups 1 and 2 in Class 1, comprise the basis for the quotation of 76 per cent.

[4] GLUECK, SHELDON, and ELEANOR T. GLUECK, *Five Hundred Criminal Careers*, New York, 1930, and *Five Hundred Delinquent Women*, New York, 1934.

stolen property likewise probably encourages many persons who know about them to be predatory. But whether such places act principally as magnets for already demoralized and criminally sophisticated individuals or as agencies for the demoralization of innocent and moralized persons is still a matter of conjecture. The same line of argument applies to occupations of moral risk for children and young adults. Take, for example, the street trades of children such as the newsboys, bootblacks, peddlers, and messenger boys. They expose boys to moral and criminal risks, and yet they attract boys who have street sophistication.[1]

Many of the so-called places of moral risk are undoubtedly focuses where young persons can and do take over patterns of delinquent behavior, especially those connected with an underworld tradition of crime and vice, but the suspicion is that they are more likely to assist the later stages of demoralization or sophistication in crime than to bring about the initial moral downfall of individuals. Acting in such capacity, the institutions of moral and criminal risk would principally reach or attract the already demoralized, already delinquent, already criminal individuals, and push them further into demoralization and crime. But this is merely supposition in an unexplored field.

The Role of the Cinema

One of the most modern agencies of commercialized recreation—the cinema—has been suspected of contributing to demoralization and delinquency of children and adolescents. But usually, exaggerated claims have been made by laymen, whereas moderate claims have been made by research. In his original study of 823 Chicago delinquents, Healy found only 9 cases in which excessive interest in moving pictures was considered as a minor factor in causation.[2] In discussing the influence of the moving pictures on delinquency generally, Healy claimed that visual imagery was the most closely connected with main springs of action and that moving pictures have an added force over single pictures, in that the details of action are presented. He contended that the moving pictures stimulate sex instincts. He mentioned the possibilities for the occurrence of bad sex habits under cover of darkness in the theaters. He claimed that the direct effect of the pictures on delinquent behavior is usually conspicuous—translating suggestions into action. In some instances children who have developed enormous appetites for picture shows steal in order to attend. Considering all sides of the question, he pointed out that "the amount of delinquency produced by

[1] See The Crime Commission of New York State, *Crime and the Community*, prepared by Harry M. Shulman, pp. 143–151 for content and bibliography, Albany, N. Y., 1930.

[2] Healy, William, *The Individual Delinquent*, p. 136, Boston, 1915.

them (movies) corresponds but slightly to the immense number of pictures which are constantly shown."[1]

Burt found a passion for the cinema in 7 per cent and 1 per cent of his boy and girl delinquents, and in 4 per cent and 0 per cent of his nondelinquent boys and girls.[2] Excessive passion for the cinema was defined as attendance "on an average of two or more times a week." He claimed to have encountered only 4 or 5 cases of children in which a crime seemed to be "directly inspired" by the cinema and believed that direct suggestion of criminal deeds only infrequently occurs.[3] In less rare instances, in which motivation is very difficult to untangle, the cinema might stimulate boys to steal for admission.[4] The cinema's greatest influence on child behavior, according to Burt, is its elusive effect on manners, habits, attitudes, and the love interest.[5] But, confirming Healy, he finally concludes that "in comparison with the incalculable number of films that are manufactured and released, the offenses resulting are infinitesimally few."[6]

Blumer and Hauser, in a study of young offenders in correctional and reformatory institutions in Illinois, found, as mentioned heretofore,[7] that 10 per cent of the boy inmates and 25 per cent of the girl inmates admitted that moving pictures had some direct effect on their delinquent careers.[8] The indirect effect of the cinema on behavior, which is often associated with delinquency, crime, and immorality, was admitted in much larger proportions.[9] "Such motion picture experiences are, of course, not the sole factors. (It is scarcely conceivable that any instance of criminal behavior could be traced to a single factor.) Yet they take their place alongside of other influences, being sometimes of minor importance, and occasionally of major importance."[10] The authors admit, however, that the motion pictures condition behavior in two opposite directions: they may dispose persons toward crime and they may reenforce conventional behavior.[11] They suggest that the differential effect on individuals is due to the fact that the social backgrounds of persons form the unconscious basis for selection and interpretation of moving-picture content. A child in a high-rate delinquency area is

[1] *Ibid.*, p. 308, pp. 306–309.
[2] BURT, *op. cit.*, p. 521.
[3] *Ibid.*, pp. 137–140.
[4] *Ibid.*, pp. 140–141.
[5] *Ibid.*, pp. 141–143.
[6] *Ibid.*, p. 143.
[7] See pp. 155–156.
[8] BLUMER, HERBERT, and PHILIP M. HAUSER, *Movies, Delinquency and Crime*, pp. 35, 81, 198, New York, 1933.
[9] *Ibid.*, pp. 38–72, 81–112.
[10] *Ibid.*, p. 35.
[11] *Ibid.*, p. 201.

more apt to be responsive to and affected by the criminal content of cinemas than is the child from low-rate delinquency areas. In the socially disorganized milieu, characteristic of high-rate delinquency areas, the effect of the moving pictures appears to be commensurate with the ineffectiveness of the family, school, church, and neighborhood.[1]

The cinema was found to play a much heavier role in the production of delinquency according to Blumer and Hauser's study than according to the findings of Healy and of Burt. One reason for this is that Blumer and Hauser specifically and exclusively paid attention to the effect of movies on conduct, whereas Healy and Burt merely took note of it when it happened to make itself visible in case studies that evidently were looking for more important factors. Perhaps some place in between the extreme findings of Healy and of Blumer and Hauser's findings might represent the truer gauge of the influence of the cinema on delinquent behavior.

Both direct and indirect influence on conduct is apparently greater for girls than for boys, according to Blumer and Hauser's returns. Burt's findings were just the opposite. From one point of view, common observation would seem to favor Blumer and Hauser's findings. Boys in modern society have a range of movement and contact so much wider than girls have that substitute or vicarious experience, derived from cinema, would not play so large a role in their lives as in the lives of girls.

Appraisal of the Community Factor in Crime

It has been seen that the community factor is mainly revealed through general or specific conditions of disorganization and the presence of demoralizing institutions, which present a moral and criminal hazard to some individuals. The best insight into the workings of the community factor has come from the attempts to study the area distribution or concentration of delinquency and crime as related to indexes of social disorganization. But these studies show differential delinquency risk by areas varying in the scale of disorganization indexes. They do not show what has affected the behavior of the persons who become delinquent and they do not explain why some persons become delinquent and others do not. The institutions of moral risk evidently assist in bringing about the demoralization of certain persons and facilitate the adoption of criminal or illicit patterns of behavior. But we have no definite knowledge as to how important or widespread is their influence in the production of crime, with the possible exception of the influence of the cinema, in which instance certain gauges have been made. And we have very little insight beyond mere speculation as to what types of individuals such institutions do or do not reach.

[1] *Ibid.*, p. 202.

Variations in Wealth and Misery by Localities

Ploscowe has neatly stated that three principal methods have been used to indicate the influence of economic conditions on crime. He described these methods as follows:

> The geographic method compares the criminality of countries, or of parts of the same country, where differing degrees of prosperity are observable. A second method investigates the criminal conditions of the different social and economic classes of the population. The third and most instructive method examines the fluctuations in criminality and compares them with the ebb and flow of the economic life of the country.[1]

The first method, the comparison by countries or areas, has been fraught with inadequacies because of the failure to take into account the differences in legal processes, police activity, and crime reporting, as well as social conditions that have great bearing on the volume of crime. Thus, when one country or locality is compared with another country or locality in regard to crime rates, the two areas may not be at all comparable; for the index to the volume of crime is not comparable. Nevertheless, many comparisons in crime rates were made for countries and localities of supposedly known varying economic conditions. Using rather dubious data, Morrison, over a generation ago, contended that there was no necessary connection between impoverishment and crime. He found that 1 out of 42 and 1 out of 195 were proceeded against criminally in England and India, respectively, during 1888, and claimed that India should be by far the more lawless, if poverty was a cause of crime. In the colony of Victoria, a land of great opportunity and prosperity, there should have been "less economic excuse" for crime than in any other part of the world, and yet 1 out of 30 was arrested for crime during 1887. According to Morrison, England (at the time of his writing) was said to be 6 times wealthier than Italy, and yet theft rate was higher (228 *vs.* 221 per 100,000 population for the period 1880 to 1884). France was rated as several times more wealthy than Ireland, and yet had a higher theft rating (121 *vs.* 101 per 100,000 population for the period 1879 to 1884). The Irish with all their poverty were "not half so much addicted" to theft as the English. Consequently, Morrison concluded that "crime is produced or checked by a great many causes besides economic conditions."[2]

[1] Ploscowe, Morris, "Some Causative Factors in Criminality," National Commission on Law Observance and Enforcement, *Report on the Causes of Crime*, no. 13, Vol. 1, p. 97, Washington, D.C., 1931.

[2] Morrison, William Douglas, *Crime and Its Causes*, 3d ed., pp. 130–137, London, 1908. He cites statistics, some of which were used above, gathered by Sig. L. Bodio, dir.-gen. of statistics for the kingdom of Italy.

Comparing the districts of Belgium in regard to amount of criminality and wealth or poverty, Jacquart likewise concluded that the volume of crime does not vary by sections according to degrees of wealth or poverty. For the most part, he discovered that high crime rates were characteristic of the wealthy areas and low crime rates of the poor areas, with the notable exception of Flanders, where a high crime rate accompanied great misery. He contended that it is impossible to claim that criminality is more responsive to economic than to other disrupting factors. He thought that sudden growth and changes in the socioeconomic order, such as made themselves felt in the latter part of the nineteenth century, were particularly conducive to demoralization and crime. Drastic changes in the environment, he insisted, are just as dangerous to man as to plants. Both riches and misery have some effect on crime, as do economic crises and famines, which, he claimed, principally influence crimes against property and vagabondage.[1]

In his analysis of moral conditions by districts, Quetelet, a century ago, found that the department of Creuse was the lowest in crime rate, the poorest, and yet the most moral for all of France. Luxembourg, Holland, likewise was low in crime, the poorest, and very moral.[2]

One is led to suspect that the change, disorganization, and demoralization, that attend industrial and commercial development and the sudden blossoming or opening up of a locality are more likely than wealth or misery to be connected with volume of crime. Economic distress will more probably have an influence on crime in an actively developing urban area than in a stabilized rural area.

Instead of poverty's accounting for differences in amount of criminality in variously compared localities or countries, the probability is that some factor lying close to social stability or instability of the people must be found, provided that the crime indexes are valid for comparison.

Economic Status of Criminal Population

The economic status of the criminal population compared with the economic status of the general or noncriminal population is the second way by which attempts have been made to isolate the economic factor in crime.

Reference in detail has already been made to Bonger's efforts to show that crime is disproportionately related to the members of the lower

[1] Jacquart, Camille, "La Criminalité belge 1868–1909," *Annales de L'Institut Supérieur de Philosophie*, Vol. 1, pp. 390–394, 400–401, University of Louvain, 1912.

[2] Quetelet, L. A. J., *Physique sociale*, Vol. 2, pp. 198–199, 210, Brussels, 1869. Also, see Quetelet, *Sur l'homme et le développement de ses facultés; essai de physique sociale*, Vol. 2, pp. 197–198, 201–202, Brussels, 1836. Luxembourg was a part of Holland at the time.

classes.[1] However, as Ploscowe has indicated, the attempts of Garofalo, Fornasari di Verce, Marro, and others to estimate the "respective contributions of the various social classes to criminality are in disagreement as to their results."[2] Reasonably reliable differentiation of the class levels of the general population and the criminal population is most difficult to obtain and no adequate objective criteria for class sorting have yet been devised. If and when such adequate sorting is made, the comparisons might show a differential in the liability of individuals of the various classes to be arrested and dealt with officially or in getting involved in crime—a differential which would be as important as age, sex, and race differentials. But such an established class differential could not be considered as a causative factor in criminal behavior, since it merely indicates a risk rather than the factors that bear directly on behavior. This statement does not mean to intimate that differential liabilities or risks for crime, such as age, sex, race, nationality, and possibly class, are not so important as truly etiological factors. In some respects the differential risks are more important than the etiology of crime, especially while the latter remains in its present nebulous state.

If and when class differentials for crime are established, they should be validated in reference to types of offenses, because there is good reason to suspect that class differentials in regard to types of crimes will show greater contrasts than will the class differentials for crime in general.

In Healy's pioneer work in analyzing causative factors in 823 delinquent cases, he found 2,920 factors, all told, or an average of about 3.5 per case. Poverty was listed as a causative factor in 63 instances, or an average of less than 0.08 per case, or 8 per cent,[3] which does not lead one to believe that it was a very prevalent factor in causation. Burt, in his investigation of a small sample of London delinquent children, found that 19 per cent came from families classified as very poor, and 37 per cent from homes designated as poor. In the general population of London it was estimated that only 8 per cent came from homes of the very poor and 22 per cent from homes of the poor. Hence, he considered that delinquent children were disproportionately coming from the lower socioeconomic levels. He hastens to add that when "nearly half the offenders come from homes that are far from destitute, poverty can hardly be the sole or the most influential cause."[4] It should be noticed, however, that Burt only noted the presence of poor family circumstances in his cases and did not actually link up poverty with behavior

[1] See p. 169.

[2] PLOSCOWE, *op. cit.*, p. 101.

[3] HEALY, *op. cit.*, p. 134.

[4] BURT, *op. cit.*, pp. 62, 65–67.

as did Healy. Healy, on the other hand, did not admit poverty as a causative factor unless the evidence appeared clear that the impoverished condition had a direct bearing on the behavior of the case. It is conceivable that poverty might have a closer bearing on delinquent and criminal behavior in countries whose poor actually get involved in crime from sheer hunger and want than in a country where such elemental drives do not often express themselves. But the question is always present as to why other children and adults do not yield to compensations for destitution and impoverishment. Even in cases where poverty can be shown to be directly linked with delinquent or criminal behavior, it is doubtful that it will ever be the sole, or even the outstanding, causative factor.

Economic Cycles

Perhaps the greatest amount of effort has been made to shed light on the economic determination of crime by relating the volume of crime in various successions of years to the "ebb and flow" of prosperity and depression. The method employed in such studies is to relate the volume of crime to an index of economic conditions, such as the price of grain or an index of business activity.[1] This sort of research represents one of the oldest types of inquiries into the problem of crime. Sellin points out that the attempts to relate the volume of crime to economic conditions run back to 1829[2] and include the works of Guerry, Quetelet, Ducpétiaux, Russell, Fletcher, Clay, and Walsh.

Perhaps the first outstanding study from the standpoint of adequacy of statistical method was that made by von Mayr. He charted the yearly fluctuation in crimes known to the police and the price of grain for nine Bavarian provinces for the years 1835–1836 to 1860–1861. The yearly fluctuations in the amount of total crime, private crime, and crimes against property follow directly and fairly closely the fluctuations in the price of grain, while yearly fluctuations in the volume of crimes against the person and against the public order do not follow or even run counter to the fluctuations in the price of grain.[3] During these preindustrialized times, high price of grain was supposed to mean hard times and low prices, good times, for the masses. In countries that are

[1] The best general coverage on studies attempting to show a relation between economic fluctuations and crime may be found in Thorsten Sellin, *Research Memorandum on Crime in the Depression*, Social Science Research Council, Bulletin 27, pp. 19–62, New York, 1937; in Ploscowe, *op. cit.*, pp. 103–117, and in Joseph van Kan, *Les Causes Économiques de la Criminalité*, Paris, 1903.

[2] Sellin, *op. cit.*, pp. 20–21.

[3] von Mayr, Georg, "Statistik der Gerichtlichen Polizei im Königreiche Bayern und in einigen anderen Ländern," *Beiträge zur Statistik des Königreichs Bayern*, Heft 16, pp. 189–205, Munich, 1867.

highly industrialized, and more recently in countries of controlled economy, the price of grain cannot be relied upon as an indicator of good or bad times. Reviewing the evidence of the relation of the ebb and flow in economic conditions to the volume of crime in the studies prior to 1900, van Kan concluded that there was little dependence of the latter on the former.[1]

One of the more recent studies of outstanding statistical merit is that made by Ogburn and Thomas, who developed a method of relating crime along with other social conditions to the business cycle, using a composite index of business fluctuation based on wholesale prices, commercial failures, bituminous coal and pig-iron production, freight ton-mileage, bank clearings, employment, railroad construction, and imports. This business condition index was correlated with an index based on the number of convictions in New York State for the period 1870 to 1920. A moderately low negative coefficient of correlation ($-.35 \pm .08$) indicated that the volume of convictions ran somewhat counter to expansion and contraction in business activity,[2] *i.e.*, in good times convictions fell off slightly and in bad times they increased slightly. The Ogburn and Thomas study supported the results of a study by Davies, published a few months earlier, in which the annual admissions to the state prisons of New York showed a negative correlation with the indexes of wholesale prices ($-.41 \pm .13$) for the years 1896 to 1915.[3]

Thomas later correlated the number of prosecutions for indictable offenses with a composite business-activity index, using data on England and Wales for 1857 to 1913. She did not find any "reliable, consistent or close connection, one way or the other, between fluctuations in business and fluctuations in volume of crime."[4] The offenses against property without violence, including larceny, embezzlement, fraud, receiving stolen goods, and comprising 80 to 90 per cent of total indictable crimes, likewise showed no evidence of marked, reliable, and consistent relationship with the business cycle, although one might expect theoretically that these property offenses would increase in hard times and decrease in good times.[5] Offenses against property with violence, including robbery, burglary, house- and shopbreaking, did show a marked, reliable, and consistent tendency to increase in bad times and to decrease in good

[1] VAN KAN, JOSEPH, *Les Causes économiques de la criminalité*, p. 12, Paris, 1903.

[2] OGBURN, WILLIAM F., and DOROTHY SWAINE THOMAS, "The Influence of the Business Cycle on Certain Social Conditions," *Journal of the American Statistical Association*, Vol. 18, p. 339, 1922.

[3] DAVIES, GEORGE R., "Social Aspects of the Business Cycle," *The Quarterly Journal of the University of North Dakota*, no. 2, Vol. 12, p. 111, January, 1922.

[4] THOMAS, DOROTHY SWAINE, *Social Aspects of the Business Cycle*, pp. 136–137, New York, 1927.

[5] *Ibid.*, pp. 137–138.

times.[1] Crimes against the person, which one would logically expect to increase with good times and to decrease with hard times, showed no constant and reliable correlation with the business cycle.[2] Likewise, crimes against morals (including rape) showed no apparent, constant, or reliable connection with business conditions.[3]

Winslow related prosecutions and admissions to penal institutions in the state of Massachusetts to an index of employment in the state for the period 1885 to 1929. For reasons that made year-to-year comparisons difficult or unreliable in interpretation, certain types of offenses were left out of final reckoning. The final list included the following groups of offenses: vagrancy; robbery, burglary, breaking, and entering; larceny, fraud, forgery, receiving stolen goods, unlawful appropriation, arson, etc.; assault, assault and battery, felonious assault, threats and intimidations; trespass, walking on railroad, malicious mischief, disturbing the peace; offenses against chastity, morality, and decency; and lastly drunkenness. Using percentage deviations from seven-year moving averages, the above and below (positive and negative) average deviations in crimes and in employment were plotted for each year. The separate years were then classified into years that showed a high employment index (deviations of 2 per cent or more above the average), a medium employment index (deviations between 2 per cent above and below the average), and a low employment index (deviations of 2 per cent or more below the average). This grouping of the years corresponds roughly to good times, fair times, and bad times as judged by the volume of employment. Winslow then related the deviations above and below the average for each group of crime for every year that fell in the high, medium, and low classification of employment volume.

The general conclusion for the combined nine classes of crimes is that "about three-fourths of the years with a low employment index showed a tendency toward an increase in crime as measured for the different groups of offenses by positive deviations in prosecutions and admissions." "That these are not entirely chance relationships is also indicated by the two-thirds to three-fourths negative deviations, when the same groups of offenses are studied for the years with either high or medium percentage deviations in the employment index."[4] This general inverse relationship of higher amount of crime with lower employment volume and lower amount of crime with higher employment volume

[1] *Ibid.*, p. 139.

[2] *Ibid.*, pp. 140–141.

[3] *Ibid.*, pp. 141–142.

[4] WINSLOW, EMMA A., "Relationships between Employment and Crime Fluctuations as shown by Massachusetts Statistics," National Commission on Law Observance and Enforcement, *Report on Causes of Crime*, no. 13, Vol. 1, pp. 310–311, Washington, D. C., 1931.

was found to be more markedly apparent for vagrancy, robbery, etc., larceny, etc.; less apparent in assault, etc.; still less apparent in trespass, etc., and nonsupport, etc.; only slightly apparent in offenses against chastity, etc., and in drunkenness.[1]

Considerable insight into the effects of great privation and distress on crime is obtained from studies of criminality during the World War and postwar periods in Germany and Austria. Crimes against property increased markedly. While thefts constituted 39 per cent of all crimes in Austria before the war, the proportion rose to 73 and 80 per cent, respectively, in the war period and the postwar period.[2] Exner found that during conditions of deprivation and inflation the curve in the volume of theft went sharply in the direction opposite to the curve of the value of real wages.[3] Based on average volume for the years 1911 to 1913, the percentage increase in various types of crime was charted for the years 1915 to 1923. Theft reached its peak of almost 800 per cent increase in 1920–1921 and declined approximately half its ascent by 1923. Fraudulent purchases reached a peak of a 600 per cent increase in 1920 and 1921 and retreated more than a third of its climb by 1923. Abortion declined for the most part during the war period but climbed the most precipitously of all crimes from 1919 to 1923, with no retreat at all. Murder, in comparison to the percentage increase of the former crimes, was only slightly influenced by conditions of the war and postwar period, while offenses against morals and crimes of violence showed, comparatively speaking, a very slight decline during the war and a very slight increase in the postwar period.[4]

In his study of crime during the postwar period of Germany—the period of inflation and hunger—Liepmann found that property crimes increased to grotesque proportions under the influence of dire necessity and the breaking down of inhibitions. The urge to theft and dishonesty increased with every fall in the value of the mark, sweeping along with it persons never before involved in stealing and deception. "Absolutely everything" had value and was in danger of being stolen.[5] Elsa von Liszt made the observation that, during the war and postwar period in Germany, one could tell from the crimes what foodstuff and useful articles had become especially scarce.[6]

[1] *Ibid.*, p. 309. The author's interpretation of Winslow's data.

[2] EXNER, FRANZ, *Krieg und Kriminalität in Oestreich*, p. 60, Vienna, 1927.

[3] *Ibid.*, p. 83.

[4] *Ibid.*, p. 199.

[5] LIEPMANN, MORITZ, *Krieg und Kriminalität in Deutschland*, pp. 71–72, Stuttgart, 1930.

[6] "Die Kriminalität der Jugendlichen in Berlin in den Jahren 1928, 1929, und 1930," *Zeitschrift für die gesamte Strafrechtswissenschaft*, Vol. 52, p. 250, 1932.

One difficulty in appraising the true relation of crime to a period of great distress and deprivation is the fact that crime and disorder can stalk the land as a social epidemic just as inflation itself—just as any other epidemic, such as fads and panics—and can be geometrically increased by contagion rather than actual necessity. In other words, crime becomes exaggerated by hysteria rather than by privation. Another difficulty in evaluating the significance of greatly increased crime in a period of terrific stress is that crimes against property may be brought to light and prosecuted much more frequently and petty acts toward property may be more readily interpreted as theft in a period of great privation and inflation than in more settled times.

Vold could not find any evidence that the grave depression era in the United States was accompanied by a commensurate increase in crime. There was no apparent sudden increase in crime and, particularly, no sudden spurt in crimes against property in the depression period up to 1935.[1] But the depression period in the United States and the postwar period in Germany represented quite differing situations. In war and in postwar Germany, there was actual scarcity in foodstuffs and material goods; in the United States, there was plenty. In the former, there was inflation; in the latter, deflation. Privation and hysteria were much more widespread in the former than in the latter.

If, ultimately, the effect of economic conditions as working through different economic levels of areas, regions, and countries, through social class differentials, or through the ebb and flow of prosperity and depression can be clearly demonstrated by reliable statistical procedures, the question still would remain as to whether causation of crime or liability to crime is uncovered. There is good reason to believe that merely greater or lesser liability to crime would be uncovered. The mechanism of how such economic conditions really affect behavior would not be known. And the question as to how and why certain classes or groups of people exposed to these conditions did not become criminal and others did would not be answered directly. Some light on this problem might be shed by control-group comparisons in which cases of offenders and of matched nonoffenders are studied in detail for the points of differences that made one set criminal and the other set noncriminal. This same problem, as we have seen, arises at all points where special conditions have been singled out as causative, whether these be family, community, economic, mental, or physical conditions.

In the present state of knowledge, all we can say is that economic conditions probably have some indirect bearing on crime, but not so much as commonly supposed. Just what economic conditions have

[1] VOLD, GEORGE B., "The Amount and Nature of Crime," *American Journal of Sociology*, Vol. 40, p. 803, May, 1935.

what bearing on what crimes and on what individuals and how these conditions actually determine criminal behavior are matters upon which clear and definite light has not as yet been shed.

Summary Statement on Causation of Crime

In all fairness it should be realized that, with the exception of studies of the relation of intelligence to crime, the environmental factors have been subjected to more rigorous objective, critical, and statistical tests of validation than have the biological, mental, and physiological factors in criminological study of causation. Looking back over the numerous efforts to throw light on the causes of crime, it appears that more progress has been made in discounting or showing the inadequacy of findings than in arriving at validated and scientifically acceptable findings. As a result of their review of the researches in causation of crime, Michael and Adler arrive at the following extreme appraisal: "The absurdity of any attempt to draw etiological conclusions from the findings of criminological research is so patent as not to warrant further discussion."[1]

The progress in the etiology of crime, it is true, has been more negative than positive. More is known as to what is not acceptable than as to what is acceptable. But this is progress, nonetheless, because investigations into the etiology of crime are becoming more rigorous. Demands for proof and verification of findings and for exactness and reliability of methods of investigation are being progressively made.

Whether positive, verified knowledge about the etiology of crime is possible at all or is likely to appear in the near future may well raise questions of doubt. The many uncontrollable factors or variables may defy certain reckoning indefinitely. This is especially true if we assume that the search for the causes of crime is a search for the way in which various factors and conditions operate to produce antisocial behavior as well as a search for what makes human beings behave criminally.

If we assume, further, that the search for determining factors and mechanisms of behavior is an endless task or an impossible one, we have two immediate alternatives. We can place greater reliance on attempting the more possible determination of differential risks or liabilities for crime, such as can be found for age, race, sex, class, region or area, companionship as well as for isolable family, community and economic conditions, and mental and constitutional traits. Here the problem would be to call attention to categories of crime risk, separately or combined, just as life insurance actuarians compute the differential risk of dying at a certain age from factors associated with those who die early

[1] Michael, Jerome, and Mortimer J. Adler, *Crime, Law and Social Science*, p. 169, New York, 1933. Their review of "researches in causation" should be consulted in Chap. 5 of their book.

or live long. The problem would not be the discovery of the way in which a factor or combination of factors operates to produce criminal behavior. The categories of crime risk would have considerable practical value for treatment and preventive programs, since they should yield a modicum of predictability over what sort of individuals are likely to get involved in crime and what sort of offenders are likely to relapse into crime.

The second alternative to a frustrated etiology of crime is the investigation of the behavior sequences or processes by which individuals become criminal and develop criminal careers. If such courses of behavior patterning or maturation can be validated and typified for development in delinquency and crime, a modicum of control and predictability could be established over cases and applied to cases for prevention and treatment. In other words, treatment could be geared to the blocking or surmounting of succeeding stages in criminal development. In order to study such processes or sequences in criminal patterning of behavior, it is not necessary to know positively the specific causation of crime. As in the instance of the study of categories of crime risk, the mechanisms of causation are assumed to be at work but do not have to be positively known. There is good reason to believe that the study of crime risk categories and behavior sequences will yield results that would be just as important, if not more important, than positive knowledge of the workings of causation. Diminishing returns from further refinements in the study of crime causation may ultimately mean that crime is a phenomenon whose appearances can be studied and charted but whose existence cannot easily be explained. If such an approach to the study of crime finally emerges, it would mean that criminological study by statistical and observational methods would conform to something akin to the astronomical approach to the study of heavenly bodies, whose behavior in time and space can be accurately plotted and predicted but whose reason for existence can only be guessed at.

CHAPTER XIV

THE NATURE OF PUNISHMENT

It is doubtful that a wholly satisfactory explanation of the existence of punishment can be made. This is not an unusual state of affairs, since most of the institutions and customs in society are difficult to explain. Sociologists, anthropologists, and psychologists have attempted many times, without signal success, to account for play, sports, magic, religion, taboos, marriage, and several other social forms.

Explanations of any particular social form have been either single- or multiple-factor explanations, the multiple-factor explanation usually receiving the more serious hearing. Many of the single-factor or particularistic explanations have been utterly fantastic, *i.e.*, really absurd fictions of mind. But no matter whether single or multiple, the explanations of any given social form have pointed to basic human needs and tendencies, the utility or purpose the custom serves, its value for survival of the species, the existing social conditions or exigencies under which it arose, and the presence of creative and dominant individuals in position to formulate and emanate new ideas and modes of action.

When social scientists find difficulty in arriving at adequate explanations of currently arising customs and practices, it stands to reason that even greater difficulty should be encountered in explaining social forms which have a long and varied history. This is the situation with which we are faced when we attempt to account for the existence of punishment. And it should make us cautious in subscribing to any ready-made explanations of punitive practices.

In any advanced society, the concepts and modes of punishment have been an accumulation through the ages. New ideas and patterns of punishment have come into circulation, while others have lost currency. Some of the patterns of punishment have grown up indigenously in each modern society, while other forms, perhaps most, especially in societies with large outside contacts, are borrowed.

The Nature of Punishment

Almost every mature person has certain definite ideas of what constitutes punishment, but usually he will reflect the concepts and usages of his community or society. Generally speaking, the popular conception of punishment is that of inflicting some sort of pain on the offender for

what he has done, *i.e.*, for violation of the law. But this notion is only partially correct. It does not indicate the conditions under which punishment is administered or applied.

If one man strikes another for treading on his foot, this is not punishment in any sociolegal sense, but rather individual redress, not even called for by custom. If a farmer uses a shotgun on trespassers, this still is not punishment, in spite of greater customary support for such action. If the trespassers are taken before a tribunal, their cases heard, a penalty pronounced and finally executed by officials, then this becomes punishment in the legal sense.

If a family takes upon itself the redress of a wrong or injury done to one of its members, this is not legal punishment, albeit the practice might be customary. "Blood revenge" and wergild (compensation for injury) are merely family remedies. Punitive expeditions of one nation into the territory of another country, such as those of the Italians in Ethiopia, Japan in Manchukuo, the United States in Mexico (after Villa), are forms of redress, war parties, or conquest, but not punishment. However, the League of Nations' attempt to apply sanctions against Italy for violation of certain covenants conformed to punishment.

In the legal sense, a corporate group—*i.e.*, a state, a commonwealth, a tribe—must apply a penalty in its own name for violation of the code in order that there may be punishment. Punishment is, therefore, the redress that the commonwealth takes against an offending member. Just what sort of redress the state will take depends on the customs or the laws outlining the specific penalties in a particular society, since the specific forms of punishment vary greatly.

But to what extent must the penalties inflicted involve pain? Punishment can involve the administration of bodily pain and injury, but there are many forms of punishment in which this element is not present. If not exclusively physical pain, does not punishment have to administer some sort of pain—say, mental anguish or loss of social status? If pain is used in the broader hedonistic sense, including loss of freedom, banishment, discomfort, torture, loss of life, loss of property, loss of reputation (public shame), it would be true that punishment administers some sort of pain to the offender. According to Westermarck, punishment is restricted to "such suffering as is inflicted upon the offender in a definite way by, or in the name of, the society of which he is a permanent or temporary member."[1]

However, the spirit in which the penalty is administered is quite important to the understanding of punishment. It must be intended

[1] WESTERMARCK, EDWARD, *The Origin and Development of the Moral Ideas*, Vol. 1, p. 169, London, 1906.

and not accidental. But it must be intended to produce some sort of justified suffering in the offender. In most instances, punishment probably does produce suffering, but in the instances of professional or habitual criminals of modern times certain forms of punishment seem to produce other than the expected suffering reactions. While the offender is expected to suffer under the intentional application of punishment, whether he actually does suffer will depend on the particularities of the punitive situation and the toughness of the individual offender.

The social concepts necessary to give the application of penalties the proper spirit of punishment are that the violator should forcibly be made to suffer and that society is justified in making him suffer. Consequently, appropriate social concepts must support the application of penalities, in order to distinguish punishment from mere execution of orders, although these orders are painful.

But how about punishment applied not by the commonwealth, state, or tribe, but by families and special groups? Punishment in these areas of life must involve a member of the group—not a member of an outside group. If a family takes action against one of its own members, according to customary practice and beliefs, the application of penalties for misdoings would be punishment. Many special organizations in a complicated advanced society, such as churches, schools, armies, fraternal orders, and clubs, have well-established methods of discipline for their own members and have constituted authorities to apply the penalties for violation of rules. And the application of discipline by such groups to violators of their own body is, likewise, punishment.

From the standpoint of social control, extralegal punishment, *viz.*, punishment not applied by the state, is perhaps more important numerically and functionally than legal punishment. But criminologists or penologists have habitually paid attention only to the forms of punishment imposed in the name of the state for the violation of the code. Legal punishment in advanced societies has unwarrantedly held the spotlight of importance. It is usually recorded and available for study. Extralegal punishment is very unlikely to be recorded and to be available for study, and it has received very little attention in studies and investigations.

Nevertheless, punishment, whether legal or extralegal, is certainly not commendation, reward, or approval. It is rather the exact opposite, a form of disapproval. But it is a form of disapproval in which society through its agents applies measures of coercion to force redress from its offending members. Consequently, punishment is disapproval that is followed through with the spirit of extracting a penalty. Mere disapproval might leave the offender temporarily isolated from his social group, but punishment leaves him stigmatized and penalized.

Punishment in Primitive Societies

In primitive tribes there is usually some sort of intervening central authority that takes care of the administration of justice or punishment —authority which might be conceived as interference of the state in crimes that concern the state. It is rarely that we find a primitive people whose life has been subjected to detailed anthropological field study which has no central tribal authority looking after the administration of justice and in which all offenses are conceived solely as private injuries, to be prosecuted by action of kinsmen. It has been assumed that in the evolution of punishment the most primitive agency for administering justice has been the kin group.[1] Family and clan groups frequently do seek blood revenge or satisfaction from the kin group of the offender; and kinsmen are frequently collectively responsible for injuries inflicted by one of their members on a member of another kinship group. But in the same tribes that have blood feuds or blood revenge, and seek wergild (compensation for injury sustained) punitive procedures will be administered also by elders, councils, chiefs, or kings for those offenses considered to be crimes against the tribe rather than private injuries. In summing up his review of justice in primitive societies, Lowie concluded that "the majority of primitive communities recognize not merely wrongs inflicted by individuals upon individuals and precipitating a dispute between their respective kins, but that over and above the law of torts there is generally a law of crimes, of outrages resented not by a restricted group of relatives but by the entire community or its directors."[2]

From the monographic studies of primitive tribes made by competent modern anthropologists, one gets the impression that punitive measures, while exacted on some occasions, are not markedly noticeable and sometimes are almost absent. It is probably true that social control in undisturbed tribes is so effective that few violations of rules occur. When they do occur, some are undoubtedly overlooked, while others are merely subject to ridicule and ostracism rather than to kinship or tribal action. Speck reports that punitive practices and ideas of retribution and punishment are for the most part visibly absent among the Montagnais-Naskapi Indians of Labrador.

[1] On the basis of interpretations of early Hellenic, Roman, and Teutonic codes, Maine concludes that the law of wrongs in which injured parties or their confederates sought repairment from the wrongdoer antedated the law of crimes in which the state being injured sought justice. (See Maine, Henry Summer, *Ancient Law*, 2d American ed., pp. 355–385, New York, 1874.) It is very doubtful that this conclusion can be supported by field investigations of unadvanced peoples by modern anthropologists.

[2] Lowie, Robert H., *Primitive Society*, p. 425, New York, 1925.

The Absence of Punitive Ideas and Practices among the Indians of Labrador.—No ideas of retribution in the soul-realm are encountered; no recognition of reward or expectation of punishment at the hands of spiritual forces seems to be heard of among them. The treatment of individuals who have done minor injury to others and become obnoxious seems to be that of annoyed patience or temporary indifference. In every band there are met those whose status among their associates is that of the undesirable. Being avoided, they forfeit the satisfaction of friendship; hence this becomes their punishment. As mild as all this appears to us, it is serious enough in these lonesome societies. And should resentment lead the ostracized to further deeds intensifying his unpopularity, he may develop into being an offender of greater magnitude—ultimately to become a social outcast.

The answer to a question concerning what would be done to the [murderer] is therefore based upon traditional sources. The leading men of the group, I was told, cause the pursuit, capture and execution of the murderer. That seems to be all.

[The Naskapi father] will not tolerate the idea of punishing children for misdemeanors, for such are not thought of as being possible in child behavior. There being no rules of conduct for children to violate, the little ones do not suffer from being corrected or nagged. There is nothing in the domestic sphere for them to break or misplace; no rule of etiquette, deportment, or dress for them to observe; no social discipline to be drilled. I can recall no instances of corporal punishment, in fact, few circumstances in the tent-life of the savages where need for it would arise. "How can anyone harm children! Think of it; some people torment children, the poor little things," remarked a woman at Lake St. John who expressed her amazement at the treatment she had seen the Canadians give their offspring. Their parents treat them as companions or as pets, according to their ages. So impatient of chastisement of children are the Indians, that I knew of one man who could not work for a certain white man because he said he had seen the latter beat his son.

The fur-bearing animals that are caught in traps set and tended by the individual are considered his own property, both the fur and flesh, in a very strict sense. Accordingly, for one trapper to take the game from another's traps that he may chance to discover is a serious misdeed. For this, however, there is no stated punishment. The victim of such theft usually takes his own means of attempting to identify the thief, and when his mind is made up he is apt to talk freely about the robbery. The discovery soon reaches the ears of the offender and the consequences thenceforth remain a matter of individual concern. There is, nevertheless, a general belief that "lifting traps," as this act is often called, will react on one's own hunting luck.

I have not a single case from recent times to record of an individual taking premeditated vegeance upon one who has done him wrong, whether white or Indian. The Indians at all the trading posts of the territory are aware that they are being economically exploited by the traders, but never a case of vengeance arises. In the instance of physical maltreatment the offender, whether he had reason on his side or not, is never pursued nor is retaliation offered.[1]

[1] SPECK, FRANK G., "Ethical Attributes of the Labrador Indians," *American Anthropologist* (new series), Vol. 35, pp. 561–583, October–December, 1933.

Faris goes so far as to state that, in the truly primitive society—by which he means one whose solidarity has not been disturbed by outside contacts—there was no punishment, in the sense that the group did not exact a penalty and resort to a remedy. He contends that study of contemporary primitive groups "would establish the non-existence of the punishment of children among them." In fact, he claims that among many tribal societies infractions by children are likely to cause no resentment and demand no remedy. "The situation is analogous to that in which one breaks or damages his own property by accident; it is regrettable, but there is no remedy save an imprecation." And in these undislocated primitive tribes, Faris maintains that use of physical force to remedy breaks in the conformity to customs are not apparent, but that ridicule, scorn, disapproval, and reproach are the characteristic methods of dealing with infraction.[1]

It is doubtful that we could get anthropologists and sociologists to agree entirely with Faris's contentions that punishment and penalties are characteristically absent in truly primitive societies. However, many authorities would undoubtedly admit that on some occasions infractions are not resented and are left unremedied by punitive action, and that on other occasions offenders of rules are merely ridiculed, ostracized, and scolded. Lowie finds that unwritten laws are obeyed more willingly and spontaneously in primitive than in advanced societies and that ridicule and ostracism are powerful remedies for minor misdemeanors among unadvanced peoples.[2]

When the kin group or tribal agency follows up an infraction of the code, with punitive action, this action is likely to be more informal and spontaneous than the formal punitive procedures of advanced societies and is more likely to conform in spirit and atmosphere to what we know as popular justice and indignation. And if the community arousal is not evident in the punitive proceedings of primitive societies, the measures of punishment are instituted pretty much as other customary modes of action are instituted on occasions such as the hunt, the dance, festivals, and various seasonal activities. Punitive action against the offender in primitive societies that have not developed an elaborate tribunal machinery, and in some instances where they have, is therefore more likely to resemble direct, immediate, popular, customary action than indirect, mediate, delayed, formal, legal action.

Class Differentiation and Impersonal Relations

Contrary to popular impression, modes of punishment are not particularly severe or barbarous among unadvanced peoples. Most primitive societies possess rather mild punitive measures as compared with

[1] Faris, Ellsworth, *The Nature of Human Nature*, pp. 86–93, New York, 1937.
[2] Lowie, *op. cit.*, p. 398.

those in advanced countries of the historic period. Even the ordeals used in tribal communities to establish guilt appear to be, in general, far milder than those of Europe in the Middle Ages. One can only conjecture at the reasons for the presence and development of barbarous and severe forms of punishment, especially in historic civilizations up to the present day. It may be that the security and dignity of tyrannical governments rested in part on severe punishment, on display of strength in the execution of justice, and on strong measures to suppress threats to constituted authority. It may be that severe punishment can be readily meted out by the ruling class to persons of menial or accursed status in those societies with marked caste and class stratifications. Sympathetic humane treatment can easily give way on critical occasions to impersonal barbarous treatment in societies with great social distance between upper and lower classes, master and slave classes, rulers and the ruled, conquerors and the conquered. The development of a specialized personnel devoting full time to execution of justice and punitive measures has also had much to do with barbarities of punishment. The executioners, the hangmen, extractors of torture, jailers, prosecutors, and judges (of non-jury tribunals) become professionally interested in carrying out the ceremony of punishment and in seeing that full measure of punishment is extracted. Some of the executioners and hangmen developed such professional objectivity that they delighted in the ceremony of the death penalty and thirsted for the occasion to display their arts.

The conditions in society that breed inhuman, categoric, abstract social relationships not merely go far in explaining severity of punishment but also have much to do with the origin and existence of punitive measures themselves. Faris contends that "for a situation which would make the attitude of formal punishment possible, we must have a society that has grown so complex that there are varying degrees of relationship and of fellow feeling."[1] In simple societies with close fellow feeling and without the impersonal relations of marked class stratification, punishment, as we have seen, is either mild or almost absent. Faris insists that it is in large part characteristically absent. But in societies that are heterogeneous in class composition and have developed impersonal, categoric, and abstract relationships, formal punishment becomes psychologically more possible and sociologically more prevalent. The infractor is less likely to remain untouched or to be merely criticised or ridiculed. He is more likely to be treated as an enemy of society, particularly of the dominant group. And he is more likely to become a villain to be feared and a beast to be exterminated or chained.[2] The

[1] FARIS, *op. cit.*, p. 93.

[2] The ordinary of Newgate Prison of London in the early eighteenth century or whatever journalist wrote for him gave vent to stereotyped attitudes toward the thief. "He is looked upon with terror, as the overturner of society. As the beast of

offender in the class-stratified society is easily ruptured and isolated by punitive action, and in turn he readily finds that society is his enemy. Many forms of severe punitive action often resemble a man hunt in which the whole society vicariously participates in tracking down the culprit and in demanding atonement and expiation. In this situation, the culprit becomes a scapegoat, to be treated inhumanely and categorically.

It seems to be true that, in a complicated society which has lost much of its kinship feeling, its close ties between members, and its sympathetic contacts between persons, social distance and impersonal relationships grow up not only among individuals of the same class or stratum but also among individuals of different social strata. And violators of the code can be treated categorically by members of other classes as well as by members of the same class. In some instances the social class from which the culprit originated may even be more punitive and harsh in their condemnation than members of the dominant class would be.

While it is not the intention to formulate a single explanation for the growth of punishment, it is the intention to claim that the development of a differentiated class system and of impersonal, categoric contacts has much to do with the rise and prevalence of formal as well as severe punitive action. A socially differentiated and heterogeneous society is in a position to resent rather intensely violators of the law and to insist strenuously on suppressive punitive measures. The presence of conquered, menial, alien minority people in a society seems to breed categoric contacts as well as formal punitive action and strong suppressive measures. A society mobile enough for its inhabitants to get dislocated and spatially relocated in places away from their natal communities is, likewise, one in which the growth of formal, abstract, categoric punitive justice is encouraged.

According to Faris, the simple, homogeneous, undisturbed primitive societies cannot take decisive punitive action against their own members, because of the close sympathetic, personal contacts. Hostility, enmity, and categoric treatment are not showered on kinsmen but on enemies—on other tribes and other kin groups—on out-groups, to use Sumner's terminology.[1] Wars, vendettas, feuds, and forays are not punishment

prey among an herd of cattle, so is he considered in a society of men; in short, as a person whose business is to spoil, ravage and prey upon all he meets. He is feared and hated by all: they fear his actions, and hate his person." See *The Ordinary of Newgate; his account of the behaviours, confessions and last dying words of the Malefactors that were executed at Tyburn on Friday the 29th of January* 1719–20, p. 2. Original examined in the University of Texas Libraries.

[1] An out-group is the enemy, outside group in a situation of conflict which solidifies the in-group. See SUMNER, WILLIAM GRAHAM, *Folkways*, pp. 12–13, New York, 1906.

but merely group conflict or group revenge. When these same hostile, categoric attitudes toward members of the enemy out-group can be lodged against strangers, aliens, and persons of different social classes within a more highly differentiated society, the situation is ripe for formal punishment and severe suppression. Instead of solely having outside enemies, as simple, undifferentiated, primitive groups had, a complicated heterogeneous society has inner enemies as well. Hostile attitudes can thus be generated toward members of out-groups existing, not outside but inside society.[1]

The Forms of Punishment

The most common forms of punishment in times past have been death, physical torture, mutilation, branding, public humiliation, fines, forfeits of property, banishment, transportation, and imprisonment. While this list is by no means exhaustive, practically every form of punishment has had several variations and applications. For example, the death penalty has included hanging, execution, electrocution, crucifixion, burning at the stake, and so on. Imprisonment has included incarceration in dungeons, guardhouses, galleys, jails, workhouses, houses of correction, and penitentiaries. Physical torture and mutilation have assumed numerous and apparently barbarous forms—flogging, burning, dismemberment, disfiguration, and so on. Public humiliation and shame have been accomplished by stocks, pillory, branks, ducking stools, branding, and so forth.

Many forms of punishment have been conceived in terms of a direct or symbolic connection to the specific crime. Gillin refers to these as poetic punishments. "Thus the thief often had his hand cut off. The false witness had his tongue torn out or pierced. The crime of rape was often punished by emasculation. The Baptists of Switzerland were punished by being drowned."[2]

[1] This is a modification of Faris's theory of punishment. He moves from the simple, undifferentiated, primitive society in which truly punitive attitudes and measures do not exist to a complicated, differentiated society in which formal punishment is prevalent. But he does not carry forward the punitive attitude of hostility to the complicated society. In fact, he indicates that in truly primitive groups there is no hostile punitive attitude toward members of the closely knitted society but that there is hostility and revenge for enemy out-groups. And he contends also that wars, vendettas, and feuds are not punitive in nature. The punitive complex, *i.e.*, formal punishment, according to his theory, must await an organization of society in which one finds the culprit, offended society, and a third party sitting in justice (a tribunal or a jury) which in legal terms amounts to a defendant, a plaintiff (the commonwealth), and a court.

[2] Gillin, John Lewis, *Criminology and Penology*, rev. ed., pp. 203–204, New York, 1935.

Some of the above-listed forms of punishment are more characteristic of advanced than of unadvanced societies. Imprisonment, for example, rarely occurs in primitive groups. The idea of imprisonment for punishment of offenders may have been developed from the practice of providing detention for prisoners of war, although there can be no certainty about such a contention. In advanced societies that developed tribunals of justice, some sort of detention places or jails were needed to confine offenders until they were called for trial. However, imprisonment as a penal sentence did not become prevalent in Western civilization, *i.e.*, in Europe and America, until the nineteenth century. It grew as a substitute for the death penalty, transportation, exile, and public degradation —particularly the death penalty. As Western European civilization curtailed the use of the death penalty, something had to be done with the offenders left on the hands of society. It is at this point that workhouses, house of correction, and penitentiaries arose, to take care of the unexecuted and unpardoned criminals. Lengthy penal sentences required a convict prison or a penitentiary—a prison that was not a place of detention while awaiting trial and not a place of short sentences but a place for a lengthy stay. The penitentiary system as a prison for penal sentences arose in the late eighteenth century and the early nineteenth century.

Transportation of offenders to penal colonies was likewise a modern penal practice. It arose principally among the important European nations that had acquired distant colonies.[1] However, colonization was not the primary reason for resort to transportation of offenders. The decline in the use of capital punishment meant that large numbers of offenders were left on the hands of the state, which then had overflowing jails and no penitentiaries. Consequently, transportation was the safety valve to take care of the overflow of the criminal population that had escaped the gallows. England, more than any other imperialistic nation of Europe, made extensive use of transportation. When the rupture with her American colonists took place, she transported to Australia and New Zealand. England abandoned transportation in the last half of the nineteenth century[2] after much agitation and protest on the part of the

[1] See article on "Transportation of Criminals," by Harry Elmer Barnes, *Encyclopaedia of the Social Science*, Vol. 15, pp. 90–93, New York, 1935.

[2] Mayhew contends that England first began transportation in 1718, using the American colonies as the outlet, until the American Revolution. Transportation was resumed in 1784 to Australia and adjacent islands. In 1853 an act was passed substituting other punitive measures for transportation which thereafter declines in use. See MAYHEW, HENRY, and JOHN BINNY, *The Criminal Prisons of London and Scenes of Prison Life*, pp. 92–93, London, 1862. Maconochie's famous report on convict discipline in penal colonies is contained in *Copy of a Despatch from Lieut.-Governor Sir John Franklin to Lord Glenelg, dated 7 October* 1837, *relative to the Present System of*

colonies. With the growth of the convict prisons, it became less and less necessary.

Banishment and exile, likewise, are more characteristic of advanced than of unadvanced societies. In the countries that have had these punitive measures, it is often difficult to separate voluntary from forced exile and banishment. Exile probably reached its peak of severity and utility during modern times in Czarist Russia. Deportation, which is the forced return of criminal and undesirable aliens to the country of reported origin, is a typically modern, international punitive measure, also not characteristic of primitive, ancient, and early modern societies.

Sutherland was able to gather the manifold modes of punishment into four fundamental types: financial loss, physical torture, social degradation, and removal from the group.[1] Under financial loss would come fines, forfeitures, compensation, and such like. Under physical torture would come flogging, mutilation, burning, and all methods of inducing physical pain. Under social degradation would be included such methods as branding, the use of pillories and stocks, ducking—in fact, all devices and measures calculated to subject the offender to shame, jeers, ridicule, and humiliation. Under removal from the group would come execution, imprisonment, banishment, and transportation. However, one soon discovers that many forms of social degradation involve physical torture as well. And removal from the group by banishment or incarceration often involves serious loss of status and degradation for the offender and his family. Imprisonment has often been accompanied by considerable physical torture. While overlapping should be expected in any classification of forms of punishment, Sutherland's classification does give some idea of the range or points of application of punitive measures. Punitive measures have dispossessed persons of property, have attacked bodily comfort, have reduced the person to low status, and have deprived the individual of life or freedom. At all these points, the being, the comfort, and the status of the offender are attacked, directly or indirectly, although not always effectively.

Punitive Practices a System of Punishment

The most objective way to study punishment is according to what is extracted from or done to the offender as an application of a penalty, thus focusing attention on the pattern of punitive action. While the conceptions of the purpose of punishment and the rationalizations or justifications of the use of punishment are of utmost importance, they may affect the patterns of punishment and in turn are affected by them.

Convict Discipline in Van Diemen's Land, ordered by the House of Commons to be printed 26 April 1838, pp. 5–13.

[1] Sutherland, Edwin H., *Criminology*, p. 317, Philadelphia, 1924.

Changes and modifications in punishment ultimately must be reflected in the patterns of punishment, no matter whether they have been induced by the indigenous growth of a new conception of punishment in any society or by the borrowing of ideas about punishment from other peoples. Agitation for reforming a system of punishment finally results in changes in patterns.

While classification of the forms of punishment serves a useful purpose in indicating the range or the main contact points of application, a classification of punitive measures rather beclouds the specific patterns. It is more important to be aware of the specific patterns of punishment used in any age or society than of the generalized types of punishment. Societies tend to accumulate and develop their own particular complex or system of punitive practices. It is not enough to be aware that a society uses imprisonment, but it is vital to understand that it sentences offenders on such and such terms to such and such penal institutions for such and such offenses. The incarceration of an offender in a dungeon is a far different thing from sending an individual to a juvenile reformatory. Both are forms of imprisonment or, according to Sutherland's classification, both are forms of removal from the group; but these two specific usages are so markedly different in pattern that the punishment system of the society with dungeon usage and the one with juvenile reformatories could not be understood by insisting that both had incarceration. For the purpose of contrast, the specific punitive patterns that combine to make a system of punishment in any society will be presented from present-day America, Colonial New York, and seventeenth-century France.

Punitive Measures in America.—In American society today, although there are great variations in punishment usage as reflected by dispositions of courts, we have a restricted use of the death penalty, which mainly takes the form of electrocution in convictions for the graver felonies. Hangings, and particularly public hangings, have almost gone out of existence; and life imprisonment is very frequently substituted for the death penalty. Imprisonment in specialized penal and reformatory institutions, for definite and indeterminate sentences, is in current use. Short sentences to jails, workhouses, and the county road are also in current use for the less serious adult offenses. Fines are used to a considerable extent in petty offenses, although more for adults than for juvenile offenders. Probation and parole comprise an important feature of American punitive measures today, although probation is probably more frequently used in juvenile than in adult cases. Briefly, this is a bird's-eye résumé of the punitive system in vogue in America today.

The System of Punishment in Colonial New York.—Barnes's description of the punitive practices in Colonial New York indicates clearly that they

constituted a system of punishment radically different from the penal measures current in the United States today.

The situation as respects crimes and punishment in the colony of New York did not differ materially from that which existed in the colonies at large before the Revolution. As late as the Act of 1788 for "punishing Treasons and Felonies, and for the better regulating of proceedings in cases of Felony," there were sixteen capital crimes enumerated on the statute books—treason, murder, rape, buggery, burglary, robbery of a church, breaking and entry, robbery of person, robbery and intimidation in dwelling houses, arson, malicious maiming, forgery, counterfeiting, theft of chose in action, second offense for other felonies, and aiding and abetting any of the above crimes. During the earlier colonial period there has been a number of other crimes punishable by the death penalty, such as, for example, heresy, perjury, smiting a parent, adultery of married persons, piracy and flight from servitude. Where the death penalty was not inflicted corporal punishment of another and less severe type was employed. The stocks, pillory, whipping, branding and the ducking-stool were the normal methods used for imposing punishment. For the lesser offenses fines were prescribed, with an alternate sentence of corporal punishment if the fine was not paid. Nearly all who were imprisoned for any considerable period of time were debtors, imprisonment for debt not having been abolished in New York State until the laws of April 7, 1819, and April 26, 1831, were passed. The great bulk of all others who were confined were those who were charged with the commission of a crime and were held pending trial at the next session of the court. The use of imprisonment as a method of punishing crime made but very slow and partial progress in the colony of New York. It first appeared in relation to the offense of "barratry," made punishable by fine or imprisonment in 1665. The first step of any significance came in Chapter 31 of the laws of 1788, which prescribed imprisonment for disorderly conduct, but the true beginning of the use of imprisonment as a method of punishing crime may be dated from the passage of the act of March 26, 1796.[1]

Punitive Patterns of Seventeenth Century France.—The specific patterns of punishment used in France of the late seventeenth century make a striking contrast to those used in Colonial New York and to those found in present-day America. According to Jousse, the criminal ordinances of France as of 1670 contained the following forms of punishment, graded by the seriousness of the penalty:

1. First class (capital punishment): burning at the stake, breaking on the wheel, quartering, hanging and beheading, as death penalties; galleys for life, banishment for life, criminal proceedings against the dead (*e.g.*, dragging the corpse on a hurdle with judicial condemnation of the deceased), confiscation and civic death.

[1] BARNES, HARRY ELMER, "The Historical Origin of the Prison System in America," *Journal of Criminal Law and Criminology*, Vol. 12, pp. 39–40, 1921–1922.

2. Second class (afflictive and corporal): slitting the tongue, cutting of lips, cutting off nose, cutting or burning off hand, as forms of maiming; branding, flogging, "carcan" (iron collar around neck and chained to a wall), pillory, as forms of corporal punishment.

3. Third class (noncorporal afflictive): consignments to galleys for a term, imprisonment (reclusion) for a term, exile (which entailed no infamy as did banishment), servile labor in public, "amende honorable" (asking apology in public), as noncorporal, afflictive punishments.

4. Fourth class (infamous): wearing fool's cap through streets, public exposition on a scaffold, public reprimand, fines, public burning of seditious writings, as forms of infamous punishment.

5. Fifth class (civil): admonition or warning sometimes with a fine, *aumone* (a pecuniary noninfamous mulct), *poena dupli* (double fine, applicable in embezzlement of public monies and in criminal bankruptcy), as forms of civil punishments.[1]

Justifications of Punishment

The reasons why society punishes are bound up with several ancient conceptions, attitudes, and values, as well as with more recent justifications and motives. In any particular society or era the justifications of punishment are pretty well stereotyped in the thinking and sentiments of the people. For the most part, there is a firm belief in the efficacy and the rightness of punishment, although in modern times the value of punishment has been subject to considerable challenge and criticism.

The extant justifications of punishment, some of them antique and some of them more recent in origin, may be listed as follows: retribution, atonement, deterrence, protection, and reformation. These stereotyped rationalizations, justifying the use of punishment, are current in modern societies today. The common man usually justifies the use of punishment mainly in terms of retribution and atonement, which are undoubtedly the oldest justifications. The more sophisticated persons usually justify punishment in terms of deterrence and protection, while the reformers express a faith in the use of punishment as a means of reformation. No matter what justifications are subscribed to by different levels of people in modern times, the justifications are part and parcel of the penal system, just as much as are the forms of punishment themselves, and, as we have seen, these stereotyped conceptions of the efficacy of punishment influence, and are in turn influenced by, the particular forms of punishment. Attention should be called to the fact that the prevalence of strongly entrenched justifications does not mean that punishment effectively cures criminals and curbs crime.

[1] Summarized from Carl Ludwig von Bar, *A History of Continental Criminal Law*, translated by Thomas S. Bell, pp. 269–277, Boston, 1916.

Retribution.—Retribution is probably the oldest and most ancient justification for punishment, according to which a wrong is righted by an offender's receiving his "just deserts." It involves a "get-even" spirit—an eye for an eye and a tooth for a tooth. Many authorities have attempted to base the forms of human punishment on instinctive reactions, which might variously be called wrath, anger, resentment, or revenge.[1] Some have even sought to demonstrate the existence of rudimentary punishment in the animal kingdom, in the effort to validate the instinctive basis of punitive action.[2]

While it is hazardous to seek equivalents of human punishment in animal behavior, it does seem that the reactions to crime on the part of the injured party and on the part of the public are often indignant and wrathful and that these reactions are fairly spontaneous.

In American society a particularly offensive crime, such as a rape, kidnaping, a cold-blooded murder, calls out a wave of popular indignation and resentment. In the field of personal contacts, injuries and wrongs likewise frequently incite spontaneous instinctive wrath and anger. But for most infractions of the code and for most personal affronts, these hot-tempered reactions seem to be held in abeyance or not to be present. Cosmopolitan manners have found a way to sublimate or express the feelings aroused by many petty personal nuisances. And the administration of punishment by official agencies of the state has taken the sting of popular resentment and anger out of most applications of punitive measures.

However, the demand for punitive retribution still lurks in the minds of individuals, although it takes the form of a rationalization or sentiment —something which ought to be done or action which justly and rightly needs to be taken—and this rationalization or sentiment is carried forward as a social concept to justify the necessity of punitive action on the part of the state.

Expiation.—Expiation is, likewise, an ancient justification for punishment. The offender is made to atone for his crime through suffering. The demand for expiation is probably as frequent as is the demand for retribution. Moreover, both motives are usually found reenforcing one another. When punishment is being exacted visibly or publically in the spirit of appeasing the community or catering to the multitude, the element of expiation is certainly present.

[1] See authorities cited by WESTERMARCK, *op. cit.* Vol. 1, pp. 22–43.

[2] See PARMELEE, MAURICE, *Criminology*, pp. 7–10, New York, 1924. Evans presents several reports of animal gatherings at which punishment was meted out to the offending members. See EVANS, E. P., *Evolutional Ethics and Animal Psychology*, pp. 231–241, New York, 1898.

Mead contended that the criminal in the process of punitive action becomes a scapegoat, *i.e.*, the object of chastisement, scourging, and degradation, which provides an outlet for the outraged feelings created by his offense. Society also preserves an attitude of hostility toward the lawbreaker as a common foe and the emotions of the battle are projected on the violator. The moral values become even more sacred because society must fight to maintain them in the face of undermining threats of the criminal. Punitive action against the culprit gives the community a sense of its moral superiority—an assurance that virtue is, after all, rewarded. It allows society to rally around its moral values and to vitalize its sense of solidarity. Hostile action against offenders brings about cohesiveness in society. When malefactors are made to expiate, especially before the multitude, society goes on a moral orgy, the recovery from which restores social equilibrium.[1]

The trend in modern society to do away with physical torture and to withdraw the application of punishment from the public eye has lessened to some extent the force of expiation. However, the community is still able to take satisfaction in the fact that justice has been done, although hidden from view. The dissatisfaction with modern methods of punishment comes from quarters that still believe that the malefactor should suffer abundant agony in order to make the proper amends or in order for punishment to be punishment.

Deterrence.—When the function of punishment is considered necessary to teach the offender a lesson and to show others what will happen to them if they violate the code, punishment is being justified on the basis of deterrence. The assumption is that if society failed to bring culprits to justice and to punish them for their misdeeds, it would thereby encourage crime, and consequently crime would be rampant. Punishment is therefore supposed to hold crime in check—to have a deterrent effect on criminal behavior. In modern countries at the present time, deterrence is probably the most apparent and plausible of the extant justifications for punishment. It is a much more intellectualized justification for punishment than either retribution or expiation, which are tinged with emotional reactions and strong feelings. One receives the impression that the justification of punishment as a means of deterrence is not so evident in the punitive systems of ancient and primitive societies as in the historic and advanced societies. But thorough comparative study would have to demonstrate or disprove such a contention.

Beccaria, whose writings at the end of the eighteenth century had much to do with renovating the system of punitive justice in Europe,

[1] A modified and interpolated statement of Mead's theory. See MEAD, GEORGE H., "The Psychology of Punitive Justice," *American Journal of Sociology*, Vol. 23, pp. 585–588, 591–602, 1918.

contended vigorously that the intent of punishment should not be to torture the criminal or to undo the crime (expiation) but the purpose should be "to prevent others from committing a like offense."[1] He insisted also that "a punishment, to be just, should have only that degree of severity which is sufficient to deter others."[2]

While punishment for deterrence appears to be logically efficacious, there is considerable doubt that it has as much deterrent value as the justification presupposes. Even in the era when extremely severe punishment was used for crimes of minor importance, no evidence can be found to support the view that punitive measures materially curtailed the volume of crime. In reviewing the evidence presented before a special committee of the House of Commons (1930), Calvert boldly contended that the fact "that capital punishment alone deters the burglar from carrying lethal weapons is a supposition which is refuted."[3]

In some instances punishment undoubtedly does act as a deterring force. And many communities that pride themselves on efficient law enforcement and swift certain criminal justice may actually discourage professional criminals, organized crime, and commercialized lawlessness by reducing the chances of continuing uncaught and unsentenced. On the other hand, communities with inefficient law enforcement and faltering criminal justice may encourage the practice of crime as a business.

But for the great mass of infractions of the law, the fear of consequences or the fear of punishment probably enters very little into causation. The conception of deterrence presumes that the person thinks before he acts and that all he has to do is to think of the consequences and then he will be deterred. Actually, however, individuals behave, act in certain ways, get involved in certain activities without the fear of punishment's being held uppermost in mind. When the thought of risk does accompany criminal behavior, it more likely makes the culprit cautious and forces him to cover his tracks in order to prevent apprehension.

The theory behind public hangings and the administration of milder forms of punishment in public was to some extent based on deterrence as well as expiation. By subjecting scapegraces to public view, it was thought, a more visible and forceful example could be made of them. However, it appeared that the multitude that came to look on found in the public spectacle values other than a moral lesson. It was more interested in seeing how the offenders withstood their fate, how callous they were, how they would react to the jeers and chastisement of the crowd. An early nineteenth-century English worker for the abolition of

[1] BECCARIA, CESARE BONESANA, *An Essay on Crimes and Punishment* (with a commentary by M. de Voltaire), p. 51, new ed. corrected, Edinburgh, 1778.

[2] *Ibid.*, p. 107.

[3] CALVERT, E. ROY, *The Death Penalty Enquiry*, p. 61, London, 1931.

capital punishment, a Mr. C. Gilpin, is made authority for the following observation: "I spoke to several (gathered around Newgate on a Sunday evening to ensure good places for the executions on Monday morning), and it was evident they all looked to the 'hanging' as they would to a prize-fight or a bull bait, only that the former was much more attractive and exciting."[1] The public executions held at Tyburn, a mile from Newgate prison (London), during the eighteenth century were notorious for their processions from prison to scaffold. "The rag, tag and bobtail of the populace were wont to leave their slums and form in a procession, cheering a popular malefactor and exhorting him to die game."[2] When the public executions were set outside Newgate, to get rid of the hilarious processional to Tyburn, the audience would gather in the early morning hours and previous thereto would have "execution parties" at near-by houses and taverns.[3] Even earlier, in the smug, well-ordered German community of Nuremberg, a careless indifferent attitude toward public execution, both on the part of the condemned and the spectators, was prevalent. The witnessing public, deadened to the ceremonial dignity of a public execution, hilariously railed and joked on such occasions.[4]

England's eighteenth-century Henry Fielding, one of the shrewdest practical criminologists, although known primarily for his literary contributions, advocated privacy and solemnity for executions. Otherwise, he claimed, no shame and no example accrue to public hangings, since they only make bold nerves in the eyes of the mob, and the multitude is mainly interested in their boldness.[5]

The exigency that finally forced the withdrawal of the public executions and public spectacles in the administration of punishment in European and American countries was the fact that they had lost their dignity and meaning and, instead, became a carnival for the masses.

Protection.—The notion that punishment is necessary to protect society from criminal depredations has been growing in importance, especially since the increasing utilization of imprisonment as a form of sentence. Before the era of widespread use of imprisonment and during the period in advanced countries when capital punishment was relied on heavily, it appears that retribution, expiation, and deterrence far over-

[1] BEGGS, THOMAS, *An Inquiry into the Extent and Causes of Juvenile Depravity*, p. 86, London, 1849.

[2] Statement by Henry Savage in introduction to *The Newgate Calendar*, Edwin Valentine Mitchell (ed.), p. 5, Doubleday, Doran & Company, Inc., New York, 1926.

[3] *Ibid.*, p. 5.

[4] HAMPE, THEODOR, *Crime and Punishment in Germany as illustrated by the Nuremberg Malefactor's Books*, translated by Malcomb Letts, p. 151, London, 1929.

[5] FIELDING, HENRY, *An Enquiry into the Causes of the Late Increase of Robbers, etc.*, pp. 121–127, London, 1751. Original consulted in the University of Texas Libraries.

shadowed protection as the efficacious justifications of punishment. Political enemies of the ruling powers may have been exiled, executed, or thrown into dungeons as a means of riddance, but for the great mass of criminals, removal from the social scene by punishment was not looked upon as protection of society. Punishment for social defense or public safety did not get crystallized in the thought-ways of the public and accepted as a meritorious justification for penal action until the age of convict prisons and the use of prison sentences.

While imprisonment is supported by all the conceptions justifying punishment in general, it is also thought of as a safety device. Confined behind prison walls, the offender is considered unable to harm society. In recent years, several countries have enacted habitual and abnormal criminal laws, whereby recidivists and mentally deficient and unbalanced offenders are placed in custodial detention for various periods ranging upward to life imprisonment.[1] The most widely known provisions of this character were instituted in Belgium in 1930 and actually called "laws of social defense" against habitual and abnormal offenders. Laws of this nature have in recent years received support from many reputable penologists, especially in Europe. Because of this fact, protection, or "social defense," has come to be a very important justification of punishment.

Theoretically, the justification of punishment as a measure of social defense is sound. In reality, the recent laws of social defense give very small and uncertain coverage on violators. The number of offenders, habitual or abnormal, actually reached under the administration of these laws is pitifully small. The special provisions for their protective detention and parole are not adequate. On the other hand, if imprisonment is conceived as protection of society against the general run of violators, the quality of this protection is quite low. Many of the professional criminals avoid detection. Only a small portion of crimes known to police ever lead to arrest and conviction. Convicts are usually given only short terms. Consequently, imprisonment, generally speaking, is able merely to keep a few violators out of circulation for a short period. This is not much protection. But modern society apparently is willing to risk danger from the incorrigible and recidivists in order to allow a considerable proportion of exconvicts to settle down into a law-abiding life outside prison walls.

Reformation.—The justification of punishment as a means of reformation of the offender also arose in the era of widespread use of prison sentences. The houses of correction, which in England and European countries antedated the convict prison, were supposed to teach the offenders a lesson and correct their shortcomings. The early prison

[1] See pp. 409–411.

system in America was predicated on penitence, from whence comes the word "penitentiary"—a place to reflect on misdeeds and to become contrite. Later, reformatories were established, with a program of work, education, recreation, and religious services, in order to assist in rehabilitating the offender and preparing him for his entrance back into law-abiding society. The indeterminate sentence, with a mark-off of so much time from the full length of the sentence for good behavior in prison, and the accompanying use of parole as a form of conditional release before full expiration of the sentence were also additions to the modern prison system, calculated to foster quick reformation of the offender.

Theoretically, imprisonment for reformation also is sound; but practically, rehabilitations are difficult to achieve.[1] Some permanent conversions to a law-abiding, useful existence are made. But the relapses appear to be more plentiful than even temporary conversions. The reason for this may be embedded in the reformatory program or it may lie in the make-up of the criminal population. What is more, it can be claimed with considerable factual support that the prison system as it has existed up to date does more harm than good—corrupts more than it reforms.

The Limitations of Punishment

It is already apparent that there are definite limitations to punishment, in spite of the generally accepted justifications for it. On the positive side, *i.e.*, from the standpoint of what it actually does to the offender, (1) it may make him cautious about concealing his activities; (2) it may stigmatize him and isolate him from the society to which he should be adjusted; (3) it may martyrize or heroize the culprit; (4) it may develop in him an antisocial grudge and a strong resentment to authority, not conducive to a law-abiding existence. On the negative side, *i.e.*, from the standpoint of what it does not do, (5) it does not prevent crime in others or relapse into crime; (6) it does not repair damage to society; and (7) it does not reconstruct the personality of the offender. Some of these limitations are inherent in punishment itself, while some are partially the result of the peculiarities of the system of punishment. Limitations 1, 2, 3, and 6 are for the most part inherent in any system of punishment. While limitations 4, 5, and 7 could, for the most part, be overcome by better facilities of administration.

To students of criminology and practical workers in the field of crime and delinquency, the limitations are perhaps more apparent than are the values of punishment. In consequence, many interested experts and laymen have sought to surmount the difficulties. The more they have

[1] See Chaps. XIX and XX.

developed policies and programs to surmount the limitations of punishment, the more they have offered amendments in the form of substitutes for punishment. Strange it is indeed that the practice of punishment which has gathered up several well-entrenched, although stereotyped, justifications for its existence should have so many serious limitations and should have so poor an achievement record. In this respect the system of punishment is not alone, since the existence of many social forms is justified better in theory than in fact. Nevertheless, in an age that is better able to test out the operational effectiveness of social agencies, institutions, and devices of social control than ever before, one would expect that some pragmatic basis for the continuance or discontinuance of certain forms of punitive action can be found in the future.

CHAPTER XV

THE PRINCIPAL TRENDS IN PUNISHMENT

Unless a society completely overhauls most of its basic institutions in a comparatively short space of time, as Russia has done since the World War, the system of punishment is not likely to be completely revolutionized at any one time. As has been indicated, replacements and modifications in the system are sped up considerably by reform agitation. Ordinarily the changes in the system have been fairly slow and particularly slow during lull periods of reform agitation. The modifications of older forms of punishment and the introduction of new forms are not always so visible to the public eye as may be supposed—especially if accomplished without agitation. And even then penal reform has never been a mass movement—a popular front for the masses of the people. Penal reform has had only a very limited appeal and a very limited support, although its leaders have been effective. In consequence of the fact that changes in the penal system are likely to come about without much popular consternation, it is almost necessary to view them in long perspective to see clearly what has taken place. When the changes are studied over a period of years, with a view toward finding out in what direction they have been moving, it is possible to discover trends.

In looking backward from modern advanced societies into former ages and times, the most important trends in the field of punishment have been (1) the mitigation of punishment, (2) the decline in the severity of punishment, (3) the individualization of punishment, and (4) the substitution for punishment. These major trends do not exhaust all the specific changes and smaller trends that have occurred, but they do gather in most of the important developments.

Exemption and Mitigation: Class, Age, Mental Condition

Most societies have had some sort of customary rules or legal devices operating to exempt certain classes of persons from responsibility for criminal acts and to spend or change the force of the application of punishment. It appears that the several forms of mitigation and exemption have accumulated throughout the ages, so that today any modern country that has preserved its institutional continuity is likely to possess many rules and procedures forestalling the summary application of punishment.

For the most part, kings and rulers could do no wrong. In ancient and early modern societies that maintained an impregnable class system, members of the upper class frequently were excused from liability for acts that cost commoners or slaves their lives. While the differential responsibility of upper as compared with lower class operated by customary procedure, the exemptions of upper classes were sometimes translated into law, usually by specifying that low-class persons were responsible for certain acts and omitting the responsibility of upper-class persons. This was the case in Roman society both before and during the empire.[1]

In addition to class, age has constituted one of the principal bases for exemption from criminal responsibility. As Faris has indicated, unadvanced peoples, so-called primitive peoples, have been unusually light in application of group or private punishment on children.[2] However, many modern legalistic societies have attempted to specify the age under which children are not responsible. In nineteenth-century England children under seven were excused from criminal liability, although their parents might be liable for civil action (*i.e.*, damages). The criminal code of the German Empire of the late nineteenth century exempted children to twelve years of age.[3] The application of juvenile court laws and practices to offenses of children in the Unites States has had the effect of raising the age limits of criminal responsibility, by substituting chancery methods of hearing and disposition for criminal law handling of cases. The status of a minor, when he does appear before a criminal court of America, makes for a mitigating circumstance and often affects the application of penalties.

The mental condition of an offender has long been a basis for exemption from responsibility. Lowie cites a case of an appeal in a primitive tribe to forestall punishment because the offender did not have good sense.[4] How frequent or infrequent was the exemption made in primitive societies for mental condition cannot be stated with any certainty, since this item is not covered very often by field studies. There are indications, however, that the recognition of insanity or madness as a basis of exemption from responsibility and punishment is very ancient. The Romans recognized it. The English allowed it from early times. The most significant legal pronouncement on the relationship of insanity

[1] MOMMSEN, THEODOR, *Römisches Strafrecht*, pp. 1031–1049, Leipzig, 1899.

[2] See p. 262.

[3] STEPHEN, JAMES FITZJAMES, *A History of the Criminal Law of England*, Vol. 2, pp. 97–98, London, 1883.

[4] "At a tribal council of the Dieri (an Australian tribe) a young man was charged with mating within the forbidden degrees. The elders examined the matter, sustained the accusation, and almost killed the convict, who escaped death only through the appeal made by an influential tribesman that he was an imbecile." ROBERT H. LOWIE, *Primitive Society*, p. 408, New York, 1925.

to crime was handed down in the opinion of English judges in the famous M'Naghten case (1843). The main point of the opinion is that an offender is to be considered sane and responsible until proved insane at the time of the act, so that the defendant could not know right from wrong.[1] A few years later, English judges rejected "irresistible impulse" as a ground for exemption.[2] In 1883 England instituted a criminal lunatic law, requiring the cases to be kept in custody as a curb on the abuse of the plea of insanity. Insanity before the bar of justice, however, is now pretty much what the physicians say it is, and this has meant elastic interpretation. The various states of the United States, according to Crotty, may be divided into four blocs on the question of the relation of insanity to criminal responsibility. The largest group holds to the "right-and-wrong test" laid down by the M'Naghten ruling. A second group allows irresistible impulse besides the right-and-wrong test. A third group allows irresistible impulse but discards the right-and-wrong test for the insanity plea. The fourth group demands no legal test of insanity.[3] Like England, the states of the United States in many cases demand public or private custody of insane offenders, although there are many loopholes in powerfully sponsored cases, and most states provide special wards or hospitals for the criminal insane.

Criminal Intent and Benefit of Clergy

The countries influenced by Roman law usually make certain exemptions for absence of *mens rea*, *i.e.*, absence of a guilty mind or criminal intent. Many modern countries, likewise, make exemptions for ignorance, where specific knowledge is necessary to commit a crime; for drunkenness, if it provokes a crime, if it produces temporary insanity, and if it negates intent; for coercion of married women and for duress and compulsion.

There have been very special and sometimes short-lived exemptions from punishment or the full measure of punishment. For example, fleeing to a city of refuge placed a hunted offender beyond the retaliation of blood feud. In Christian countries the right of sanctuary was frequently recognized. A malefactor taking refuge in a church or a sanctuary might remain untouched or might have his penalties lightened. England abolished the right of sanctuary in 1623, although laws a century later were still aimed at a few privileged places that resisted the civil arm of the law.[4] The benefit of clergy was another curious exemption or

[1] Crotty, Homer D., "The History of Insanity as a Defence to Crime in English Criminal Law," *California Law Review*, Vol. 12, p. 117, 1923–1924; see also Stephen, *op. cit.*, Vol. 2, pp. 153–159, for the verbatim opinion.

[2] Crotty, *op. cit.*, p. 119.

[3] *Ibid.*, pp. 121–122.

[4] Stephen, *op. cit.*, Vol. 1, p. 492.

mitigation, as the case may be. The practice loomed very important in England from early Christian times until the nineteenth century. Originally benefit of clergy was a privilege of clerics to be free of jurisdiction of lay courts and subject only to ecclesiastical courts. The privilege was extended to secular clerics, who did not wear ecclesiastical robes. Later, benefit of clergy came to include anyone who could read or write, whether in clerical dress or not, although it did not apply to women, who were incapable of being ordained. By the eighteenth century benefit of clergy came to mean a sort of literacy test that excused the offender from the death penalty, and certain felonies were clergyable and others were not. During the eighteenth century, all persons guilty of their first clergyable felony were entitled to the benefit of clergy, which exempted them from capital punishment and substituted imprisonment or transportation.[1]

Pardon and Commutation

The principal forms of mitigation of punishment consist of pardons and commutations of sentences. The indications are that pardons are very ancient in origin. To what extent pardons are found among primitive peoples cannot be ascertained with certainty, since the monographic studies of their round of life contain so little coverage on an item of this sort. According to Jensen's researches, Hammurabi's son pardoned a slave; King David is reported to have used the pardoning power; the "assembled people" of Athens could remit penalties; the Roman emperors exercised the pardoning power; among the early Germanic tribes also clemency was used; likewise, by the early English kings.[2] In modern England applications for pardon are reviewed and recommended by the Home Secretary's office, acting for the King. The pardoning power in the United States, descending from sovereignty of English kings, is vested in the President for federal offenders and in the governors of the states for offenders against state codes. However, the use of clemency by governors of the states has been restricted somewhat by the establishment of pardon boards, because of the abuse of the power. According to a survey of Neal and Hager, pardon boards existed in twenty-nine states (*c.*1929): fifteen were provided for in state constitutions and fourteen by statutes.[3]

The unconditional pardon is probably the more antique; the conditional, the more modern. In America a conditional pardon is granted on condition that the recipient leave and remain outside the state, pay a sum of money to reimburse the state for expenses incurred in prosecution, live

[1] Stephen, *op. cit.*, Vol. 1, pp. 460–463.

[2] Jensen, Christen, article on "Pardons" in the *Encyclopaedia of the Social Sciences*, Vol. 11, p. 571, New York, 1933.

[3] Neal, Ann, and Beatrice Hager, "Summary of the Provisions of the Constitution and Statutes of the Several States relating to Pardons," *Journal of Criminal Law and Criminology*, Vol. 20, p. 364, 1929–1930.

a law-abiding existence, or be confined to a state hospital or a private sanitarium.[1]

The pardoning power usually contains the lesser power of commutation of sentence. A death penalty may be commuted to life imprisonment or a sentence of imprisonment reduced in length by commutation. Commutation is not a conditional or an unconditional pardon, but rather a change from a higher to a lower penalty in the scale of punishment. It is a form of clemency, as is the pardon, but in a lesser degree.[2]

Decline in the Severity of Punishment

Judging from the concrete forms of inflicted penalties, it is quite apparent that there has been a decline in the severity of punishment. To be sure, the degree of severity depends on what hardships a people are used to withstanding. For example, in a society that has become accustomed to anesthetics, people are more sensitive to physical pain and are less able to gird themselves to withstand pain. Likewise, in a society with controlled food and water supply and with comfortable living conditions, people are less able to withstand the hardships and privations that faced their ancestors. At the same time, the public has become accustomed to milder and milder punishments. Relatively speaking, a six months' confinement in a heated, fairly sanitary jail may be as painful an experience today as an indefinite imprisonment in an unheated unsanitary dungeon was 300 years ago.

The point with which we are concerned is not that people in advanced countries are more sensitive to pain, but that they do not have to withstand so much torture and hardship. Undoubtedly the changes in the patterns of living as well as those of punishment have created the softness, rather than the softness creating the changes in the patterns. To illustrate by analogy, we are not so much concerned with the fact that modern individuals may not be able to withstand an operation without anesthetic as readily as their great-great-grandfathers could as we are with the fact that the practice of surgery has changed and involves less hardship to the patient.

If we add unadvanced primitive people to our coverage, it might be contended that the trend in punishment would show an increase in harshness as we approach the historic civilizations, with class distinctions and despotic or tyrannical governments, and a decrease in severity in modern advanced countries that manifest concern for the masses, more mass participation in government, and wide diffusion of more comfortable living conditions. At any rate, since ancient, medieval, and early modern

[1] *Corpus Juris*, Vol. 46, pp. 1200–1201; New York, 1928.
[2] *Ibid.*, pp. 1197–1200; also, *California Law Review*, Vol. 14, p. 502, 1925–1926.

times of historic countries, there has been a definite decline in the use of severe and torturous punishment.

Diminishing Use of Capital Punishment

The evidence for the decline in the severity of punitive measures largely concentrates in the diminishing use of capital, torturous, mutilating, and infamous punishment. According to Hume, 72,000 great and petty thieves were executed during the reign of Henry VIII of England.[1] In 1533, it is reported, Henry VIII had twenty-seven Protestants burned at the stake for heresy. In later years he had all those "hunted to death," who would not acknowledge him head of the Church.[2] The Nuremberg Malefactor's Book reveals the following samples of the use of capital punishment: a clothmaker who strangled his own mother was burned in oil (1392); eighteen Jews were burned alive on Jew Hill for murdering four Christian boys (1497); after 1571, an assault frequently sent the offender to the gallows; women thieves were hanged, although death by the sword (considered less shameful) was allowed sometimes; deliverance from the shameful rope (hanging) and substitution of execution by the sword were a matter of great gratitude; the penalty for stealing goods valued over a gulden was death (*c.* 1552); persons who sent letters of defiance or threat were beheaded; wanton lewdness, adultery, and incest were punished by execution; swindlers, seducers, and petty thieves were executed by the sword; a witch was tied to the post, strangled, and burned for conspiring with the devil (1659); perpetrators of treasure stories were executed; insurrection and riot cases were beheaded, especially, peasants and reformers; and disturbers of the peace were executed.[3] As late as 1780, English law recognized over 200 capital offenses, most of which are now considered minor in importance. At that time one could even be hanged "for associating for a month with gypsies."[4] In 1833, a boy of nine was sentenced to be hanged in England for pushing a stick through a window and "raking out a few pieces of children's painting colours, valued at two pence."[5] Calvert also reports that capital punishment was repealed in England for cattle, horse, and sheep stealing, larceny, and forgery in 1832; for house-breaking in 1833; for stealing letters in 1835;

[1] Bovee, Marvin H., *Reasons for Abolishing Capital Punishment*, p. 210, New York, 1877.

[2] Griffiths, Arthur, *The Chronicles of Newgate*, new ed., p. 45, London, 1884.

[3] Hampe, Theodor, *Crime and Punishment in Germany as illustrated by the Nuremberg Malefactor's Books*, translated by Malcomb Letts, pp. 59, 47, 48, 39, 79, 82–83, 88–93, 116, 113–114, 77–78, London, 1929.

[4] Calvert, E. Roy, *Capital Punishment in the Twentieth Century*, 2nd ed., p. 4, London, 1927.

[5] *Ibid.*, pp. 5–6.

and for burglary in 1837; although several years prior to these abolitions the death penalty was seldom used for these offenses.[1]

It is not the intention to single out any particular country or age for special notice, although England is a special case of an advanced country's going against the trend for three centuries.

While most countries of Europe employed the death penalty generously, they had as compared with England a much smaller number of offenses that called for its use. And while these countries were gradually restricting the use of the death penalty, England was going in more heavily for it. In the early fifteenth century, it is reported, England cited only 17 capital offenses; 400 years later she had over 200 capital crimes. Von Bar cites figures to show the marked decline in the use of capital punishment in Switzerland in the seventeenth and eighteenth centuries, as compared with the sixteenth century. He also indicates that the particularly torturous forms of the death penalty at the same time gave way to beheading.[2]

Even the American colonies, before the rupture, had only a mere handful of offenses that called for the extreme penalty, as compared with their mother country. "The American adaptation of the code of the mother country was never as extreme as the English code. The notorious 'Blue Laws' of Connecticut, adopted in 1642 and 1650, provided for but fourteen capital crimes. The Hempstead Code, promulgated at Hempstead, Long Island, on March 1, 1665, and introduced into New York as the Duke of York's laws, enumerated eleven capital offenses."[3] The Quaker codes of Pennsylvania and West Jersey were unusually mild with regard to the use of severe penalties.

The reason why England had so much agitation for a revision of its capital offenses at the end of the eighteenth century and the beginning of the nineteenth and so many stout-hearted agitators in high places advocating the humanizing of its system of punishment was that she had gone in so heavily for the death penalty and was so far behind the trend. John Howard came out against the overuse of the death penalty in the late eighteenth century. So did Jeremy Bentham. Sir Samuel Romilly in the House of Commons as late as 1810 proposed the abolition of the death penalty for shoplifting.[4] A society for the abolition of capital punishment was formed in England in 1828. By 1839, 1,000 bankers had softened enough to sign a petition presented to the House of Commons,

[1] *Ibid.*, p. 8.

[2] VON BAR, CARL LUDWIG, *A History of Continental Criminal Law*, translated by Thomas S. Bell, p. 299, Boston, 1916.

[3] BARNES, HARRY ELMER, "The Historical Origin of the Prison System in America," *Journal of Criminal Law and Criminology*, Vol. 12, p. 38, 1921–1922.

[4] CALVERT, *op. cit.*, p. 6.

asking that the death penalty be done away with in cases of forgery.[1] A generation later (1867), the Home Secretary is reported as saying before the House of Commons that his office was receiving about 1,000 petitions a year from philanthropic individuals and associations asking for commutations, chiefly of the death penalty.[2] At this time, the execution of women was getting to be particularly revolting to the English public.

By 1867 England had caught up with the trend pretty largely, for she was using hanging only for murder and treason cases. About 1875 she had abolished public executions.

Calvert reports that by 1927 capital punishment had been discarded in Austria, Belgium, Denmark, Finland, Holland, Lithuania, Norway, Portugal, Rumania, Sweden, in most of Switzerland; in Argentina, Brazil, Colombia, Costa Rica, Equador, Honduras, Peru, Uruguay, Venezuela, and seven states of the United States.[3] And of course great restrictions on the use of the death penalty had been made in countries that had not abolished it as yet.

No Increase in Serious Crimes

The claim is made and supported by certain facts that the curtailment and abolition of capital punishment in most instances was not accompanied by an increase in serious crimes and in some instances was actually accompanied by a decrease in serious offenses. According to Calvert again, "In no single instance (of all the countries of the world) is there evidence of a permanent increase in homidical crime as a result of abolition; in many there has been a decided decrease."[4] Bovee attempted to prove a similar contention for states in the United States. After thirty years of very restricted use of capital punishment, the state of Maine by 1864 had occasion only once to execute a person for murder. Vermont likewise showed no spurt in serious offenses under the system of curtailed capital punishment. Rhode Island, after abolishing the death penalty in 1852, had only sixteen homicides reported from 1852 to 1868.[5] He claimed that the temporary abandonment of capital punishment in Russia under the Empress Elizabeth worked well; that in a seven-year period (1804 to 1811) in Bombay, during which time no capital executions were used, the crime rate for capital offenses was lower than it had been during a seven-year period fifty years previously; that in Belgium for a nineteen-year period ending 1814, the yearly average number of murders was 21 and the yearly average number of executions was 28, for a fifteen-

[1] Bovee, *op. cit.*, pp. 207–210.
[2] *Ibid.*, pp. 212–213.
[3] Calvert, *op. cit.*, pp. 50, 78.
[4] *Ibid.*, p. 91.
[5] Bovee, *op. cit.*, pp. 229–235.

year period ending 1829 the number of murders was less than 8 per year and the number of executions less than 5 per year, for a five-year period ending 1834 the number of murders had dropped to 4 per year and the executions had dropped to zero.[1]

Calvert cites more recent evidence. He compares the number of persons committed in England and Wales for specific capital offenses three years before the abolition of capital punishment for these offenses with the number committed for the same (but now noncapital offenses) during the three-year period 1922 to 1924, making adjustments with the 1831 census. He discovered that the number of commitments for all these offenses was much lower, with the exception of forgery, letter stealing, and sacrilege, which were higher. Calvert contended also that the yearly average rate for homicide known to the police in England and Wales is four times as high as the corresponding rate in Switzerland, which had not had capital punishment in more than half the cantons for over forty years. He mentioned that while Belgium's last execution occurred in 1863, her homicide rate up to 1910 had decreased, in spite of the increasing population. Turning to Denmark, he indicated that in 1866 capital punishment was limited to willful murder, but that no executions had taken place since 1892. The annual conviction rate per 100,000 population for murder, attempted murder, and manslaughter in Denmark was 0.42 during the period 1881 to 1890; 0.28, 1891 to 1900; 0.33, 1901 to 1910; 0.32, 1911 to 1920; and these figures indicate a decrease of serious offenses in the era of abandoned death penalty.[2]

There might be considerable doubt as to the reliability of Bovee's and Calvert's statistics. The evidence presented might be criticised as being loaded or especially selected to prove the point. The exact relationship between reduction in severity of punishment and the volume of crime has not been demonstrated scientifically, although most criminologists would probably conjecture that the reduction in severe penalties would not cause an increase in amount of crime generally or the amount of serious crime and that the system of punishment has very little direct bearing on the volume of crime.

Decline in Mutilating and Torturous Punishment

While capital punishment has declined with the trends and reforms of modern society, public shaming, torturing, and mutilating have also dwindled. The use of pillories, stocks, whipping posts, repentance stools, ducking stools, jougs, branks, branding, and other devices of public shame and scorn have pretty largely disappeared. These devices probably reached their climax in seventeenth-century Europe and English

[1] *Ibid.*, pp. 192–196.

[2] Calvert, *op. cit.*, pp. 12, 49–50, 52–53, 54–56.

Colonial America, lingered on through the eighteenth century, and became rare in the nineteenth century.[1] How far back of the apparent climactic era they go is difficult to ascertain, but several of them are reported in medieval Europe and Europe of the Dark Ages. Andrews, for example, found references to the use of stocks in twelfth-century England and to ducking stools in the Domesday Book.[2]

Dismemberment and mutilation, probably never widely used, are very seldom found in the twentieth century. The application of abusive physical pain to offenders largely subsided by the time of the humanitarian era of the nineteenth and twentieth centuries, although evidence of it still lingers on. A few samples suffice. Griffiths, writing on the history of Newgate Prison (London), speaks of the atrocious treatment in prisons (jails) of the fourteenth century. "The place was full of horrors; the gaolers were rapacious and cruel. Prisoners detained on minor charges were cast into deep dungeons, and there associated with the worst criminals. All were alike threatened, nay tortured, till they yielded to the keepers' extortions, or consented to turn approvers and swear away the *lives of innocent men.*"[3] *The Nuremberg Malefactor's Book* cites an instance (1503) of a forger who would have received the death penalty but, since his art was so good, was only branded through both cheeks.[4] In early nineteenth-century Toronto, the offense of common assault was penalized with two months in the House of Correction and thirty-nine lashes in public. Not until 1886 was whipping of female offenders abolished in the Dominion of Canada, although the practice had fallen into disuse several years earlier.[5]

Mayhew quotes a statement of a convict returned from an English penal colony (probably about the middle of the nineteenth century), indicating the amount of flogging he claimed he received. "The first was 25 lashes, because a bag of flour had been burst, and I picked up a capfull. The flogging is dreadfully severe. The cats the convicts were then flogged with were each six feet long, made out of the log-line of a ship of 500 tons burden; nine over-end knots were in each tail, and nine-tails whipped at each end with wax-end. With this we had half-minute lashes; a quick lashing would have been certain death. That first flogging made me ripe. I said to myself, 'I can take it like a bullock.' I could have taken the flogger's life at the time, I felt such revenge. Flogging always gives that feeling. In all I had 875 lashes of it at last."[6]

[1] See BARNES, HARRY ELMER, *The Story of Punishment*, Chap. III, Boston, 1930.

[2] ANDREWS, WILLIAM, *Old-time Punishments*, London, 1890.

[3] GRIFFITHS, *op. cit.*, p. 32.

[4] HAMPE, *op. cit.*, p. 101.

[5] JONES, JAMES E., *Pioneer Crimes and Punishments in Toronto and the Home District*, p. 17, Toronto, 1924.

[6] MAYHEW, HENRY, *London Labour and the London Poor: The Condition of Those*

An American adult male offender who spent thirty-five years of his life in prisons describes the tortures in American prisons just a generation ago. He mentions the "water cure"—blindfolded, stripped in a tub of water, and licked with a strap; the "hummingbird"—blindfolded, stripped, and electric needles applied; suspension by wrists or thumbs, and other torturous punishment for disciplinary use. "At their best they crush and terrify; at their worst they increase the victim's hatred of mankind and make him but the more determined and ruthless in his resolution to even up the score."[1] During July, 1936, a big exposure of the barbarous whipping of boys in the Tennessee white boys' reformatory was aired and the victims were brought to light. While blame was placed on the superintendent, previous studies showed that severe whippings with a leather strap had traditionally been conducted for many years and that the guards relied heavily on the precedent.

The latter instances suggest that while court sentences in modern countries seldom condemn an offender to torturous punishment, the latter has not been eradicated from prison discipline. Moreover, abusive manhandling has not been eliminated from police tactics, especially where information or a confession is desired and "third-degree" methods are used to obtain them.

The sentiment against inflicting capital and barbarous punishment has become fairly widespread as a result of modern social trends and humanitarian agitation. Rather frequently modern juries, in countries where jury trial still lingers, refuse to convict an offender of whose guilt they are assured, because the legally required penalty is too severe. Such instances are an indication that the sentiment for milder humane punishment has developed faster and is out in front of the revision of legal penalties. However, the humanitarian conception of punishment has by no means obtained the support of all classes and levels of a modern country. In many quarters, persons still tenaciously believe in the use of severe treatment.

Sorokin's Study of the Trend in Severity of Punishment

Comparing by an arbitrary rating scale the severity of punishments for the crimes in the codes of five European countries (France, Germany, Austria, Italy, and Russia) from the pre-Christian period to the postwar era, Sorokin was unable to find a persistent decrease in the severity of maximum listed penalties. The penalities for the normal form of the crimes were the mildest in the barbaric period, increased in severity in

That Will Work, Cannot Work, and Will not Work, Vol. 3, pp. 397–398, London, no date.

[1] Clark, Charles L., and Earle Edward Eubank, *Lockstep and Corridor; Thirty-five Years of Prison Life*, University of Cincinnati Press, p. 160, 1927.

the Middle Ages, reached their peak of severity in the early modern period (fifteenth to eighteenth centuries), and declined in succeeding periods up to the middle of the nineteenth century. If the Nazi code of 1933 had been included in the study, a higher upturn in the severity of penalties in the postwar period would have been registered in the findings. However, the penalties for the aggravated or qualified forms of the crimes were most severe in the barbaric or pre-Christian era, dropping in the Middle Ages, returning to the level of the barbaric period in the early modern era, and declining in severity since that time. Sorokin assigns the maximum penalties for the various crimes arbitrary values along a scale of ten—from least to most severe form of each type of punishment (capital and corporal, banishment and hard labor, imprisonment with and without loss of rights and bodily punishment, deprivation of rights and honors, fines and confiscation). An average index of severity of punishment was obtained for all crimes in all five countries and in each historic period, and conclusions were based on the fluctuations in these indexes.

A special analysis of punishment rating of twenty-eight crimes contained in practically all codes of the five countries from the early modern period (fifteenth century) to the postwar era showed the greatest decline in severity of punishments for the normal form of the crimes in the period at the end of the eighteenth century (the French Revolutionary period) and a slight increase thereafter. For aggravated or qualified forms of the crimes, a steady decline is indicated. Here again, if the Nazi code of 1933 had been included in the study, a decided upturn in the severity of punishment would have been registered.[1]

It is highly possible that the decline in severity of punishment from the Middle Ages to the present is not so apparent as is generally assumed and is also not so regular as assumed. In making the contention that severity of punishment has declined in the modern era, we have based our conclusion on the specific content of punitive measures and on the substitution of milder penalties for severer ones. Sorokin's ratings, although arbitrary and open to question, do not reflect the specific content of punitive measures and do not reflect the substitution of lighter for heavier penalties. His scale of 10 applies equally for all types of punishment. For example, imprisonment for life counts 8 in the scale of punishments entitled imprisonment aggravated by loss of rights or bodily punishment, and gravely mutilating bodily punishment counts 8 in the scale of capital and corporal punishments. Confiscation of the whole property counts 7 in the scale of economic punishments (fines and confiscations), just as much as imprisonment for life, which counts 7 in the scale of imprisonment in pure form, and just as much as imprison-

[1] SOROKIN, PITIRIM A., *Social and Cultural Dynamics*, Vol. 2, pp. 581–588, New York, 1937.

ment for 10 years, as banishment or hard labor for not more than 10 years, and just as much as the less gravely mutilating punishments. Consequently, the scale value of a penalty under a lighter type of punishment can affect the average as much as the scale of a penalty under a much severer form of punishment. As a result of political exigencies in the totalitarian or dictatorship countries of the postwar era, a rise in the severity of punishments should be expected, but there is no indication that the specific punitive measures returned to the degree and amount of corporal torture of medieval and early modern times.

Individualization of Punishment

The declining severity of punishment and the applications of exemptions and mitigations have cumulatively and progressively had a humanizing effect on the punitive system. Punitive measures and punitive justice were softened thereby and some notice was taken of plights and circumstances of the individual offender. Nevertheless, up to this point punishment was still largely summary and categoric in application; for the system of punishment had not been individualized. Still later changes were necessary to achieve the individualization of punishment.

The trend toward individualization of punishment sets in mostly after, and to some extent in consequence of, the cumulative effects of the humanizing of punishment. It may be that the surmounting of the categoric application of punishment by individualized procedures is just a logical extension of the general humanitarian trend in punishment, as well as in all departments of social life, in the modern era. Speaking for the growth of probation, Chute claims that "it is one phase or expression of a general humanizing or socializing of the law and processes for dealing with the dependent and unfortunate charges of society. The growth of human sentiment, greater regard for individual rights and differences, and above all, the application of science to the understanding of personality and behavior, led to efforts to mitigate the inhumanity and injustice of laws which seek to punish alike all committing similar offenses."[1]

In the study of the trend toward individualization of punishment, one should not overlook certain directly associated changes in the justifications of punishment, as well as changes in punitive measures. While the individualization of punishment is attached to a general humanitarian reform movement, it is also attached, specifically as cause and effect, to the growth of prisons and prison sentences, to the conception of reformation as a justification for punishment, and to socialized court hearings

[1] Chute, Charles L., "The Development of Probation in the United States," in *Probation and Criminal Justice*, ed. by Sheldon Glueck, p. 226, New York, 1933. By permission of The Macmillan Company, publishers.

and practices. If penal colonies, prison sentences, and convict prisons had not developed, there would probably have been no development of "good time" practices, indeterminate sentences, and parole. These devices would be quite out of place in a country that used the death penalty, mutilation, fines, ostracism or banishment, pillories, and stocks as the mainstay of punitive measures, or merely used its prisons as jails to house offenders awaiting trial or awaiting execution.

The agitation for reduction of sentences as reward for good behavior, for indeterminate sentences, and for conditional release from prison before expiration of maximum sentence came as a result of prison experience and represented an effort to overcome the shortcomings of prison handling. The agitation for these measures, as well as for probation, were prompted by a new and growing justification for punishment—namely, reformation. These individualized procedures were supposed to make possible the reformation of offenders. Probation particularly is related to specialized courts or court functions. In the United States much use of it has been made by juvenile courts and specialized courts for women and young adults. Where courts pay attention to the welfare of offenders, rather than to proving of innocence or guilt, they are more likely to be guided by a theory of reformation and individualized treatment, and more likely to use probations and indeterminate sentences.

Reduction of Sentences for Good Behavior in Prison

The reduction of the length of sentence for good behavior in prison developed principally in the United States during the latter part of the nineteenth century. It became a special form of commutation of sentence by statutory sanction and, as such, it became a right rather than a dispensation of executive grace, as is the pardon.[1] The important point sociologically is that "good-time" laws placed the working out of part of the convict's salvation in his own hands. It was up to him whether he wanted to earn the reduction in the length of his sentence. Hence, good-time laws theoretically fostered individualized reformation. So significant a departure was the development of reduction of sentence for good conduct that Charles R. Henderson was impelled to make the following statement: "The moment 'good time' laws or rules were admitted there was a breach in the Chinese wall of the retributive theory of punishment. From that moment the ancient assumption that legislator or judge should attempt to measure out punishment was dead."[2]

Although good-time laws were primarily a nineteenth-century American development, the germs of the practice, according to Sellin, can be

[1] *Corpus Juris*, Vol. 50, pp. 346–347, New York, 1930.

[2] Henderson, Charles R. (ed.), *Correction and Prevention*, Russell Sage Foundation, p. xiv, New York, 1910.

traced back to Amsterdam (1599–1603), where prisoners were allowed some reduction in time of sentence as a reward for good behavior. But the idea did not take hold and was not heard of again until many generations later.[1] Maconochie, who tested out most of the modern individualized methods of prison administration in the English penal colony at Norfolk Island, Australia, prior to the middle of the nineteenth century, is accredited with perfecting a system of marks to assist the granting of reductions in length of sentence for good conduct. When the individual prisoner removed by good behavior the marks charged against him, he earned his reduction in time and was released conditionally from prison.

New York State passed what is presumed to be an embryonic good-time law in 1817, but according to E. C. Wines the law was never put into effect. In the law provision was made for the release of a prisoner sentenced for a term of not less than five years, after he had served three-quarters of his term, if his conduct in prison was good and if he had saved $15 per annum while in prison.[2] Tennessee's commutation law of 1836 operated from the start. According to this law, the prisoner was granted a formal pardon by the governor when he had served his term less the time allowance for good behavior.[3] Ohio's commutation law of 1856 was the first effective good-time law and set the pattern for subsequent legislation by the states. It provided for a record to be kept on the prisoner's conduct in prison, specifications for earning reduction in time, a scale of time reductions, and a set of forfeits for misbehavior.[4] Soon after 1856, most other states in the United States followed Ohio's lead and by 1869 twenty states had enacted commutation-of-sentence laws.[5] It should be understood that, under these laws, when a prisoner had earned his reduction in time his release was unconditional—his debt to society was paid in full. Countries outside the United States took more favorably to conditional pardon and to conditional release on parole than to unconditional release after earned reduction of length of sentence.

Indeterminate Sentences

When a minimum and maximum term of imprisonment is imposed by the court, empowered by law, and the release of the offender within these time limits is in the hands of prison authorities, this type of sentence

[1] Sellin, Thorsten, article on "Commutation of Sentence," in *Encyclopaedia of the Social Sciences*, Vol. 4, pp. 108–109, New York, 1931.

[2] *Twenty-fourth Annual Report of the Executive Committee of the Prison Association of New York and Accompanying Documents for* 1868, transmitted to the Legislature, Jan. 13, 1869, by E. C. Wines (corresponding secretary), p. 163, Albany, N. Y., 1869.

[3] *Ibid.*, pp. 163–164.

[4] Sellin, *op. cit.*, p. 109.

[5] Wines, *op. cit.*, p. 154.

is known as the indeterminate sentence. There are indications that the germs of the origin of indeterminate sentences go back of the nineteenth century considerably.

Dr. Benjamin Rush of Philadelphia in 1787 is accredited with advocating the use of indeterminate sentences. The New York City House of Refuge (1825) for juvenile offenders and juvenile paupers is supposed to have made use of the indeterminate sentence and a system of supervision akin to parole.[1] Alexander Maconochie (1787–1860), as a result of his experience as governor of the English penal colony at Norfolk Island, Australia, worked out in actual practice such individualized procedures as the mark system, good-time reductions, and conditional release.[2] One of his official reports on convict discipline at English penal colonies expressly carries the recommendation of the use of indefinite sentences rather than a term of years, based solely on considerations of reformation of prisoners.[3] Maconochie looked upon all these measures in terms of rehabilitation of prisoners. There is probably no question but that he should be considered the father of modern penology.

In America, the declaration of principles of the National Prison Congress, meeting at Cincinnati in 1870, contained the recommendation that the indeterminate sentence should replace peremptory sentences. The cudgels for prison reform and particularly the individualized and rehabilitative methods of handling were wielded mightily by such men as Wines, Dwight, and Brockway. It became apparent by the middle of the nineteenth century that "automatic and uniform penalties failed to take into account the individual differences among prisoners and could not utilize the incentives to reformation found in a device which places in the prisoner's power some means of shortening the duration of his confinement."[4]

The indeterminate sentence, as well as parole, became an integral part of New York State's Elmira Reformatory, which was patterned largely after Maconochie's ideas and pioneer experiments, but more directly after Sir Walter Crofton's demonstration in the "Irish Prison System." According to Bramer, parole was provided when Elmira opened its doors in 1876 and the indeterminate-sentence provisions

[1] BRAMER, JOHN PHILIP, *A Treatise giving the History, Organization and Administration of Parole*, p. 28, New York, 1926.

[2] See GLUECK, SHELDON, article on "Alexander Maconochie," *Encyclopaedia of the Social Sciences*, Vol. 10, p. 32, New York, 1933.

[3] *Copy of a Despatch from Lieut.-Governor Sir John Franklin to Lord Glenelg, dated 7 October* 1837, *relative to the Present System of Convict Discipline in Van Diemen's Land*, ordered by the House of Commons to be printed 26 April 1838, p. 10. Consulted in University of Texas libraries.

[4] SELLIN, THORSTEN, article on "Indeterminate Sentence," in *Encyclopaedia of the Social Sciences*, Vol. 7, pp. 650–652, New York, 1932.

followed the next year.[1] Michigan in 1869 had passed an indeterminate-sentence law but it was held unconstitutional.[2] Several states thereafter established indeterminate-sentence laws in the eighties. Most states in the United States now have such laws. But they are guarded by many exclusions. In general, indeterminate sentences in the United States apply primarily to first offenders who commit the less serious crimes.

European countries were about a generation behind the United States in adopting indeterminate-sentence provisions: Norway, 1902; England, 1908; Spain and Sweden, 1928; Yugoslavia, 1929; Denmark, 1930. However, Europe mainly used the indeterminate sentence as a protection against dangerous criminals. It was not thought of primarily as a means of rehabilitation of prisoners, as it was in the United States. The application of the indeterminate sentence by Austria in 1928 and Denmark in 1930 to juvenile offenders was considered as a corrective rather than a protective device.[3]

The Growth of Parole

Closely correlated in function and historical usage to the indeterminate sentence is parole. Parole is a conditional release from imprisonment. In the Australian penal colonies it originally came to be known as a ticket of leave. England's penal servitude acts of 1853 and 1857 incorporated the graded system and parole in their provisions. France had tried provisional release for young prisoners of Roquette, Paris, in 1832, extended it to all juvenile prisoners in 1850 and to adult prisoners in 1885.[4] In the United States, parole became a part of the new Elmira Reformatory. Ohio passed a parole law in 1885, which extended the application of parole to young as well as old prisoners in all of Ohio's state prisons. Today most states of the United States, as well as the Federal government, have parole laws. Both indeterminate sentence and parole laws were passed pretty much on the heels of one another in the United States, but both of them followed good-time laws. In fact, it may be said that good-time laws, coming ahead, delayed the introduction of parole and the indeterminate sentence. In actual practice in the United States, these three devices of individualized handling of prisoners operate conjointly and together. A prisoner is sentenced, say, for five to ten years; he become eligible for parole at five years, minus allowance for good time, which reduces the minimum requirement still lower.

[1] Brasier, *op. cit.*, p. 34.

[2] *Ibid.*, pp. 32–33.

[3] Sellin, Thorsten, "Indeterminate Sentence," *op. cit.*, p. 651.

[4] Sellin, Thorsten, article on "Probation and Parole," *op. cit.*, Vol. 12, p. 437, New York, 1934.

The success of parole depends pretty much on the granting of the individual paroles and the follow-up supervision of parolees until expiration of the parole period. The success of the indeterminate sentence depends upon the application of the law by courts and prison authorities, as well as on the system of parole.

The Development of Probation

Good-time reductions, indeterminate sentence, and parole concern the release procedures of prisoners. Probation, on the other hand, is a suspended sentence, which places the offender under supervision of the court. Like parole and its supporting measures, probation aims at rehabilitation of individual offenders, but it attempts to achieve the end by sparing the offender a term in prison. The legal basis for probation rests on the power of the courts to pass sentence and to exercise judicial clemency. The greatest development of probation has occurred in the United States and the English Empire. Massachusetts was the first state in the United States to develop a full-grown, state-wide system of probation. As early as 1836, statutory provision was made for placing petty offenders in lower courts on probation. In 1869 Massachusetts instituted probation for juvenile delinquents, entailing investigation and supervision by a state agent. This provision was extended later to the criminal courts in the commonwealth.

With the development of juvenile court laws in the United States, abundant legal provision was made to apply probation to juvenile offenders in the United States. The states were somewhat slower in providing for adult probation in criminal courts. By 1933, all states except Wyoming had juvenile probation laws and all but thirteen states possessed adult probation laws.

There is considerable difference between the legal enactment of probation and the actual use of and operation of probation. The laws did not make it mandatory on courts to use probation; they merely made it discretionary. Consequently, the use of probation depends largely on court organization and policy, and the extent of use varies widely by localities. On the other hand, the use and the operation of probation have depended on the extent to which local communities, counties, or states have provided for probation officers. Specially organized juvenile courts have made the most extensive use of probation in the United States. While the successful operation of probation is largely determined by the number and quality of probation officers in America, this country is accredited with having pioneered in the use of full-time, public, salaried probation officers.

As in the instance of the application of indeterminate sentence, probation is most frequently granted in America to first offenders who

have committed the less serious offenses. Because of the absence of detailed, uniform reporting of judicial statistics in America, it is impossible to indicate how generally throughout the United States probation is used, especially for adult cases. According to statistics quoted by Sellin, the percentage of probations out of the total number of convictions in 1931 was 22.5 for Delaware, 17.4 for Iowa, 34.9 for Maryland, 41.1 for New Jersey, 28.9 for Ohio, 50.5 for Rhode Island. In Massachusetts in the year 1930–1931, the percentage was 21.9 for superior court cases; in Wisconsin in 1929, 11.8 for adult convictions.[1]

Probation in England was extended to some serious crimes in 1861, while in 1876 missionaries were employed by philanthropic agencies to act as aides in police courts. The Probation of Offenders Act in 1907 established public, salaried probation officers for England. Provisions for adult probation were made for adults in Belgium and France in 1888 and 1891. Germany relied on conditional pardons to achieve the same result. Where probation has developed in Europe and in the very few cases in which courts order it, mostly private persons or agencies take care of the supervision. In the English courts of assizes and quarter sessions for 1929, probations amounted to 10.9 per cent of convictions, while in the courts of summary jurisdiction (like American police courts) for 1929, probations totaled only to 2.7 per cent of convictions. The percentages of probations for other countries of Europe were 19 for Austria and 8.1 for Holland in 1930; 2.8 for Scotland in 1931; 16.8 for France in 1927; 42.2 for Bulgaria, and 1.4 for Sweden in 1928; 1.1 for Finland in 1929.[2]

Substitute for Traditional Punishment

The trend toward individualization has by no means reached the limits of its possibilities with the development of good-time reductions, intermediate sentences, parole, and probation. Obviously, it can move and has moved in three directions of greater application prior to commitment, during commitment, and after release. The development in the first direction means greater use of probation and court clinics operating under laws which place rehabilitation of the individual offender before the categoric execution of penalties. The development in the second direction signifies a progressive use of an individualized-treatment program in institutions to offset the limitations of mass handling. The development in the third direction indicates a more extended use of elastic release procedure with supervision for individual cases to insure greater postinstitutional adjustment to society. Saleilles raised the question as to whether the individualization of punishment can be

[1] *Ibid.*, p. 437.

[2] *Ibid.*, pp. 436–437.

achieved better by judicial means prior to institutionalization of offenders or by prison authorities and prison administration. He favored individualization of prison programs, since he contended that the court or the judge at best can only determine the place for treatment but cannot know in advance how long the offender needs to be institutionalized in order for regenerative processes to set in, if they do at all.[1] On the point of individualization of punishment, Tarde said that "the problem is not to proportion the punishment to the material evil done, nor to the degree of criminality involved, but mainly to adjust it to the perversity of the agent, to his real criminality, which is to be prevented from expressing itself in further action."[2]

If the trend toward the individualization of punishment is able to proceed further and further in the directions indicated, it will succeed eventually in dissolving or displacing retributive punitive measures and in substituting treatment for what was once known as punishment. The substitute practices for traditional punitive measures will be individual treatment, and justification for such practices will be based on achievement of cure. The test of the efficacy of individualization of criminal treatment will have to be a low percentage of relapses of offenders into crime as a direct result of the treatment methods. If such a state of superscientific control of crime can be progressively achieved by individualized measures, it will probably mean that crime will be looked upon pretty much as physical disease is looked upon—not in terms of blame and legal responsibility but in terms of restoration of the individual to a healthy state. The development of child-guidance clinics, of clinics for adult offenders, of adjustment programs to assist probation and parole, and of facilities to recondition the individual while institutionalized point to this growing emphasis on rehabilitation and a scientific control of crime.

[1] SALEILLES, RAYMOND, *The Individualization of Punishment*, translated from the 2d French ed., pp. 12, 295–313, Boston, 1911.

[2] *Ibid.*, p. xxx.

CHAPTER XVI

SUMMARY JUSTICE AND SPECIAL COURT HANDLING

An important cog in the handling of offenders is the court system. The evolving court system represents mediate justice as opposed to immediate justice, such as blood feud (kinship vengeance), popular justice, trials by ordeal, and the pressure of public opinion. No matter what the specific stages in the development of courts may be, their history has meant the erection of machinery and ceremony in between the commission of the deed and the execution of the penalty, and consequently a removal of criminal prosecution from immediate action.

An elaborate set of justifications has arisen in defense of the system of intermediate judicial procedure. Protection of rights of the individual, the efficacious determination of innocence or guilt, the wise administration of the spirit of laws and the objective assay of evidence, and the immunity to attitudes of hostility against offenders are among some of the idealized justifications of a system of criminal justice that is not a kangaroo court.

On the other hand, a court system with facilities for prosecution, supplemented by auspices of police and criminal investigation, should be thought of as a necessary growth in a society of increasing complexity, which cannot see all, hear all, or deal with all known violations in an immediate way. This statement is by no means intended to represent an explanation of the evolution of a court system. However, it is intended to point out the fact that, as in many other social and legal institutions, the trend has been toward developing intermediate, remote, impersonal, and secondary instrumentalities for controlling human action, such as penal institutions, government, propaganda, and newspapers.

Up to the modern era the court system has represented in the main the summary handling of individuals who happened to fall into a legal category of a certain type of violator. It represented the more or less impersonal application of principle to cases—a mass handling procedure, by and large, with some exceptions and exemptions. In spite of its limitations, the court system does apply justice of a sort, *i.e.*, categoric or abstract justice. And there is some question as to whether legal justice can be other than abstract and categoric in its application.

Individualized Handling

The problem facing modern society is whether it wants legal justice or a substitute for it. Just as the development of punishment shows a

trend in modern times from categoric and mass handling of convicted offenders to individualized treatment programs as a substitute for punishment, so the development of the court system in the modern world is displaying the same trend from the dispensation of categoric legal justice to individualized handling. The growing tendency toward individualized handling of offenders in courts is really a substitution of social policy for legal justice. Do modern advanced societies want justice or do they want social rehabilitation of offenders? The conservative forces holding out for the application of punishment are the same that subscribe to justice. The more liberal forces that advocate treatment of offenders are the same that sponsor individualized handling in courts. Consequently, modern societies find themselves with a combination of both mass punishment and individual treatment and of categoric justice and social rehabilitation—a combination of old and new. The new seems to be gaining headway, although the old is still strong and resistant.

Individualized treatment and handling as a substitute for punishment and justice are gaining headway because of two main motivating forces. In the first place, punishment and justice as tested by practical outcome have borne very little good fruit. It cannot be shown that modern society has witnessed visibly successful results from legal justice and punishment. Society has not gained any greater control over the problem of crime as a result of the operation of justice and punitive measures. It may have gained some protection but not very much. In the second place, the modern sciences of medicine, psychiatry, psychology, anthropology, penology, sociology, and public welfare have shed light on the nature and causes of crime, the shortcomings of older punitive measures, and the possibilities of substitute handling. These sciences have only recently been in a position to render assistance to society in dealing with the problem of crime. Without them, scientific substitutes for justice and punishment were an impossibility; with their aid and assistance, a substitute policy of rehabilitation and treatment becomes feasible. The most important criticism of both punishment and legal justice is that they cannot per se meet the needs of the individual and cannot be scientifically fitted to the individual's background, mental condition, and potentialities for living in a normal society.

Criminal Court Systems

Criminal court systems of modern countries vary in pattern according to organization, administration, use or nonuse of juries, the function of police and court officers, the method of selection of court officers, and the underlying philosophy of criminal justice. The jury system, for example,

is more characteristic of Anglo-American countries than of others. Guilt in this system is determined from evidence presented in court. The principle of justice is one of contention of the state versus the individual. The court acts as the umpire between the two, although the system favors the rights of individuals more than the rights of the state. The judges and court officers are often, because of the method of selection, professionally unqualified. The criminal court systems on the continent of Europe, apart from the Anglo-American tradition, tend to dispense with the jury trial or to have substitutes for it, to determine guilt by special professional investigation outside court, to emphasize the protection of the state more than the rights of individuals, and to maintain professionally minded judges and court officers.

In England the criminal courts consist of (1) courts of summary jurisdiction, which hear without juries mostly nonindictable cases and conduct preliminary hearings of indictable cases; (2) the coroner's courts, which with juries inquire into the cause of violent deaths; (3) courts of quarter sessions, which with petty juries hear the less serious indictable cases (barring treason, murder, or felony punished on first conviction by death or life imprisonment) and determine punishment; (4) the assizes, which try the serious cases of indictable offenses; (5) the Central Criminal Court of London and parts of adjacent counties, which performs about the same function as the assizes; (6) the King's Bench division, which controls administration of criminal justice, is a court of first instance for crimes of public officials outside of England, hears any indictable offense in London and Middlesex, considers any misdemeanor committed in any part of England for which a criminal information has been filed, and tries any indictable offense removed from any other court by certiorari, the organization of this court consisting of three judges and a special jury; the King's Bench also has appellate power to review cases or quash proceedings for error in law of the quarter sessions courts, while the justices of the petty sessions courts can refer questions of law to it; (7) the Court of Criminal Appeal, created in 1907, for direct appeal from the verdict of a jury; (8) and lastly, the House of Lords, which may hear cases appealed from the Court of Criminal Appeal and impeachment cases, and which tries peers for indictable offenses.

An indictable offense in England is a crime for which the offender is held for and brought to trial; other offenses are nonindictable. Actually, the indictable offenses are the more serious crimes in the English code, while the nonindictable offenses are the quasi-serious or less serious crimes—*i.e.*, crimes against morals, decency, order, and safety, and against policing regulations. An Act of 1925 enlarged the schedule of indictable offenses triable by courts of summary jurisdiction, so that in

1926 it was estimated that 90 per cent of the indictable offenses were dealt with by these courts.[1]

In the United States, the organization of criminal courts of lesser and higher degree consists of (1) the justice-of-peace courts, magistrate courts, and inferior courts, which are courts of final hearing in minor crimes and of preliminary hearing in more serious crimes calling for a sentence of one year or more; (2) county, district, or circuit courts, which try the serious cases; (3) specialized branches of the above courts; and (4) appellate and supreme courts, which review cases on points of law.

As in the English, the American court system has special offices and agencies, the more important of which are the judge (usually elected in America), the state's district or prosecuting attorney (usually elected), grand juries for indictments and special investigations (drawn), trial juries (also drawn), and lawyers for the defense.

The Juge d'Instruction

The reliance of European countries on professional preliminary investigation by an investigating court officer or magistrate (*juge d'instruction*) presents one of the most important contrasts of the Continental with Anglo-American criminal court systems. The investigating magistrate makes necessary investigations of the crime, examines witnesses and defendants, prepares cases for trial, and acts in the interests of the state. Usually, a formal record is made of all proceedings and examinations. The accused is examined privately at least once. The object of the investigation is to establish the fact of guilt of the accused. These investigations are conducted secretly rather than publicly. The *juge d'instruction* has compulsive power to command assistance from police, officials, experts, and private individuals who can throw light on the crime. The rights of the accused are not paramount in the investigation. The relation between accused and counsel may be restricted considerably. During interrogation, the accused must go it alone, unassisted by a lawyer. The investigation in recent times has lost much of its inquisitorial third-degree methods for obtaining a confession.

Many students of legal institutions think that the scheme of professional investigation is superior to the Anglican system of unprofessional, public preliminary hearings in a court of first instance, to the sifting of cases held for examination by a grand jury, and the trial procedure before juries, in which the evidence of guilt is obtained from testimony of witnesses. Nevertheless, the institution of *juge d'instruction* is not beyond criticism of its functioning. Ploscowe has pointed out that the

[1] I am following the organization of criminal courts in England as presented by Pendleton Howard in his study of *Criminal Justice in England*, New York, 1931.

juge d'instruction has been backward in scientific investigation of crime and must delegate much of this to the police. More and more he is merely checking police evidence, rather than making a well-rounded investigation. His connection with state prosecutors' offices aligns him against the accused and on the side of the state, whereas he is supposed to be an impartial investigator. He plays three incompatible roles in one: as an agent of prosecution, a counsel for the defense, and a judge of evidence and testimony. Prior to the totalitarian state development in postwar Europe, agitation for liberalization in criminal justice on the continent included the restriction of the functions of the *juge d'instruction* to public preliminary hearings.[1]

Criminal Courts in the Soviet Union

The eyes of the world have recently been cast upon the Soviet Union, which has been experimenting with new legal machinery to implement the new socioeconomic order, and it is of interest to note what machinery the Soviet Union has erected to handle criminal cases. The ordinary run of criminal cases finds its way into the People's Court. The procedure in the People's Court, according to recent authority, takes the following pattern: (1) instigation of proceeding; (2) short investigation by organs of detention; (3) preliminary detailed investigation by competent investigators of criminal cases attached to the court (field investigation of facts and circumstances when necessary); (4) transfer of the case to the court; (5) court examination by three judges—one professional judge and two lay associate judges representing the people of the community; (6) cassational appeal to the higher or regional court, comprised of three professional judges; and (7) execution of sentence. The investigational record, which has been prepared before hearing, is used in court to substantiate or refute oral testimony of witnesses who are examined by the judges. A majority decision of two judges represents a verdict, while the dissenting judge can write his dissenting judgment. Most cases involving penalties of sentences from 1 to 10 years or more are appealed to the higher court. The Regional Courts act both as courts of first instance in serious capital offenses and as courts of appeal. When the court is acting as a court of first instance, one professional and two lay associate judges preside at the hearing. When acting as courts of appeal, the Regional Courts have three professional judges sitting in review of the cases.

[1] Ploscowe, Morris, "The Investigating Magistrate (*Juge d'Instruction*) in European Criminal Procedure," *Michigan Law Review*, Vol. 33, pp. 1010–1036, 1934–1935; "Development of Present Day Criminal Procedures in Europe and America," *Harvard Law Review*, Vol. 48, pp. 433–473, 1934–1935. Also, see Elio D. Monachesi, "The Italian Surveillance Judge," *Journal of Criminal Law and Criminology*, Vol. 26, pp. 811–820, 1935–1936.

The principal types of court disposition in the Soviet Union (*c.* 1937), according to Hazard, in ascending scale of weight are as follows: warnings (mainly applied in juvenile cases); suspended sentence pending good-behavior reports to a special court officer; fines, which are the least used and yet weigh heavily on the person penalized; compulsory labor, which restricts a person to his present job from one day to a year and requires the turning over of part of his income; imprisonment from one to ten years and, for a few counterrevolutionary crimes, to twenty-five years; exile; and capital punishment.[1]

The system of cojudges in the Soviet Union, as a substitute for the jury system or trial by jury, according to Zelitch, is based on the theory that the court is an integral part of the government and is a means of political defense against violation of the code. The court, therefore, does not sit as an impartial arbiter between the state and its citizens, since it is definitely on the side of the state. The opportunities for a defendant to meet charges against him in serious cases are "greatly curtailed," because of "harsh exceptional rules of procedure for the trial of criminal cases." The system of cojudges, especially the lay cojudges, was conceived to be a necessary means for the participation of the people in the workings of government.[2]

Mortality in Criminal Justice in America

Considerable criticism has been directed against the shortcomings of the administration of criminal justice in the United States. The weakness and the inefficiency of criminal justice are often cited as one of the general background causes for high crime rates in the United States. Whether this contention can be substantiated is conjectural, owing to the difficulty of isolating the effect on crime of the working of the total system of criminal justice in its various parts. The fact is that any system of criminal justice eliminates a more or less large proportion of cases from the time of apprehension to conviction. It is believed that the elimination or mortality of criminal cases in the American court system is unusually great.

Surveys have shown that in New York City (1926) only 4 out of every 100 felony cases received conviction for the offense charged, 59 being eliminated in preliminary hearing, 10 in grand jury, 9 in the trial court, and 18 convicted on other than original charges. In Chicago and Cook County (1926) 5 out of every 100 felony cases received a conviction for offense charged, 49 being eliminated in preliminary hear-

[1] From interview with John N. Hazard, whose firsthand studies of legal institutions in the Soviet Union were made during 1934 through 1937.

[2] Zelitch, Judah, *Soviet Administration of Criminal Law*, pp. 257–269, Philadelphia, 1931.

ing, 11 in grand jury, 20 in the trial court, 15 convicted on other than original offense charged. Of all the large cities of the United States on which data were available, Milwaukee showed the least amount of mortality in felony cases. Out of every 100 in 1926, 61 were convicted of the offense charged, only 17 were eliminated in preliminary hearing, none in grand jury (since it was not used), 19 in the trial court, while 2 received conviction for other offenses. The extent of elimination of cases in the procedure of courts in smaller cities and rural counties of any state appeared to be less than in the large city courts of that state.[1]

Milwaukee has been noted for its efficiency in police and court handling, and its favorable showing in mortality of criminal cases among the large American cities undoubtedly reflects this greater efficiency. Generally speaking, however, there is ample opportunity in the American court system for a case to slip away after being brought to justice. It is common knowledge that cases can and do take advantage of technicalities and loopholes in the law and legal procedure, to go free and unsentenced. In professional and organized crime, the phenomenon of "fixing" cases is quite common. While the elimination of cases undoubtedly reflects the willful taking advantage of loopholes, it also reflects the inadequacy of police and legal machinery for preparing and handling cases certainly, technically, and swiftly. Ideally, of course, it is unthinkable that there should be no elimination of cases in court handling, unless we assume that the prior steps of apprehension and preparation of cases for trial can be made completely competent and just. Otherwise, court handling needs to eliminate uncertain cases in order to prevent miscarriage in justice. However, there is no reason to believe that the elimination needs to be as high as that found in American courts in order to insure against miscarriages in justice. The great mortality in criminal justice in the United States has raised questions concerning the discontinuance of grand juries and waiving of jury trials, the need for professionalization of police and court officers, and the better sifting of cases in preliminary investigations or hearings.

Specialized Courts

Several cities in the United States have erected special municipal courts to handle civil and criminal cases in a sociolegal manner rather than a strictly legal way. Such courts sociologically represent the effort to surmount the inabilities of regular courts, as heretofore constituted, to do a constructive piece of work with criminal and quasi-criminal cases, desertion and nonsupport cases, bastardy cases, and cases of domestic

[1] Bettman, Alfred, "Criminal Justice Surveys Analysis," in National Commission on Law Observance and Enforcement, *Report on Prosecution*, no. 4, pp. 190–191, 52–73, Washington, D. C., 1931.

relations. From a legal standpoint, specialized courts in the United States have represented a means to relieve congestion of cases in regular courts serving large cities. As in the instance of the juvenile courts, they may be considered socialized courts, if we mean by that the avoidance of many traditional legal formalities in the hearing of evidence, the effort to surmount, where possible, categoric justice, and the attempt to introduce social-rehabilitation measures of handling.

The trend has been to provide some sort of clinical services in the specialized courts, in order to assist in the proper disposition and handling of apparently difficult cases. However, these services are more than likely to be segmental, *i.e.*, to give results of physical examinations, mental tests, and psychiatric diagnoses separately on request. A more thoroughly integrated study of a case in its major aspects is necessary to facilitate special individualized handling. The Psychopathic Clinic of the Recorder's Court of Detroit is organized to make a thoroughgoing study of cases referred to it, using social investigations and life-history interviews, physical examinations, psychometric tests of intelligence and emotional life, deception tests, psychiatric examinations—in fact, all the best available technical implementation—to gain insight into the total ramifications of a complete case study, which can form the basis for practical recommendations in individualized case handling. (A sample of one of its case studies is included in Appendix B.)[1]

The organization of specialized courts varies considerably, but broadly speaking they conform to what might be considered a general pattern of socialized court procedure according to the above-mentioned features. Two samples of specialized or socialized municipal courts will be described.

The Chicago Municipal Court

Organized in 1906 by an act which did away with justice-of-the-peace courts and police magistrate courts, the Chicago Municipal Court endeavored to take care of certain civil and criminal cases by several special branches of one centralized judicial body. All criminal cases in which the penalty is not death or sentence to the penitentiary, and all quasi-criminal cases are dealt with by this court. In the excluded criminal cases—roughly, the felonies or serious crimes—the Municipal Court acts as a court of preliminary hearing, finally turning the cases over to the regularly constituted trial courts of the state. The cases are

[1] See *Annual Report of the Psychopathic Clinic of Recorder's Court of the City of Detroit*, 1937, Lowell S. Selling, M.D., Ph.D., director, (mimeographed). It is of interest to note that this clinic has now developed a special branch for traffic violations, which includes one of the most complete routines of specially adapted examinations the author has observed.

tried without juries unless the latter are demanded by defendants. When a jury is demanded, the number of jurors is now placed at six, instead of the traditional twelve.

There are several very specialized branches of the Chicago Municipal Court that are of interest in the study of crime: the auto theft court, the speeders and traffic court, the boys' court, and the woman's court. The Auto Theft Court was created in 1934 and deals with cases involving stealing of automobiles and their accessories, as well as with cases of "fences" for disposal of stolen cars and parts. The Woman's Court, created in 1932, succeeded the older specialized Morals Court. It deals with women's cases over juvenile-court age, *i.e.*, over eighteen years of age. However, cases involving prostitution and soliciting comprise a large part of its load. The Boys' Court handles cases of boys over the juvenile-court age limit, *i.e.*, from seventeen to twenty-one years of age. In both the Woman's Court and the Boys' Court, considerable effort is being made to use the auspices of the social service department of the Municipal Court in adjusting cases. Social workers assigned to the Boys' Court interview persons requesting warrants for the arrest of boys, and the attempt is made to settle these cases by case work without trial. Frequently, it is the parents of such boys who file the complaint, hoping to get help from the court in handling their uncontrollable sons.[1] Of 14,058 cases passing through the Woman's Court in 1936, social workers interviewed 4,670 girls and women who were held in custody. The Woman's Court has a warrant service to which application can be made. The social workers assigned to the court attempt to adjust the complaints so that the warrants will not need to be issued. In 1936, out of 4,749 applications for warrants, only 507 were issued, the remainder being adjusted without further legal action.[2]

The Chicago Municipal Court maintains a probation department to follow up and supervise the cases of offenders from the various branches of the court who are placed on probation. But, for the most part, the supervision has been only nominal, as is true of probation work generally. At best, probation provides the opportunity for the person to "go straight" with a minimum of guidance, which, after all, is worth while in and of itself.

Analysis of the dispositions in the Woman's Court and the Boys' Court reveals that even these specialized branches of the total court function mainly as a police magistrates' court. In order of numerical frequency, the dispositions in the Woman's Court are discharge, sentence to the House of Correction, fines, dismissed for want of prosecution,

[1] Chicago Municipal Court, *Twenty-eight, Twenty-ninth and Thirtieth Annual Reports*, p. 12, January 1, 1934, to December 31, 1936.

[2] *Ibid.*, p. 28.

probation, nol-pros, and sentence to the county jail.[1] In the Boys' Court, the dispositions, arranged by numerical frequency from high to low, are discharge, commitment to the House of Correction, fines, nol-pros, probation, dismissed for want of prosecution, and commitment to the county jail.[2] The use of probation in both courts is relatively slight, and the traditional police court dispositions remain in the ascendancy.

The Chicago Municipal Court now has, as an integral part of its organization, a psychiatric institute to which suspected mental cases may be referred. Formerly, this service was less effectively rendered by the psychopathic laboratory, which was a unit attached to the Health Department. In the period 1934 to 1936, over half the cases referred by the various criminal and civil branches of the court were returned for disposition, probably indicating that findings were negative. Of the remainder, the great majority are certified to the Psychopathic Hospital, because of a strongly suspected psychotic condition (insanity). Some of the cases not returned to the court are recommended for psychiatric supervision—a form of service that has been growing. A mere handful of cases, as expected, are sent to the state institutions at Lincoln and Dixon, Ill., for the mentally retarded.[3]

In addition to the special branches and departments of the Chicago Municipal Court that we have emphasized here, there are branches dealing with the ordinary criminal and quasi-criminal cases of men and a branch dealing with all cases demanding jury trial. The outstanding noncriminal branch of the Municipal Court of Chicago is the Court of Domestic Relations, which more than any other branch of the total court attempts to deal with its cases (*i.e.*, bastardy, nonsupport, desertion, and divorce cases) by case-work adjustment.[4]

The Municipal Court of Philadelphia

Established in 1913 and its jurisdiction amended in 1915 by state laws of Pennsylvania, the Philadelphia Municipal Court is composed of a domestic relations division, a juvenile court division, a men's and a women's misdemeanants division, a criminal division, and a civil division. The court, as in the case of the Chicago court, does not meet in terms but is open at all times for transaction of business. It was created primarily to take the heavy load of cases off the regular civil and criminal courts. But, secondarily, certain divisions of the court were created to deal

[1] *Ibid.*, p. 28.
[2] *Ibid.*, p. 22.
[3] *Ibid.*, pp. 54–55.
[4] For a somewhat different functional view of the Chicago Municipal Court, see Raymond Moley, *Our Criminal Courts*, pp. 79–83, New York, 1930.

with offenders from the standpoint of social welfare, rather than summary justice.

The court was given exclusive jurisdiction over juvenile cases as conferred by the Juvenile Court Act of the state. It was also given exclusive jurisdiction in desertion and nonsupport cases, but limited jurisdiction in criminal and civil cases. The court was not given jurisdiction in cases of arson, burglary, murder, voluntary manslaughter, treason, rape, robbery, perjury, violation of election laws, criminal libel, embezzlement, and breach of public office.

The judges of the court are elected, one for each 200,000 population or fraction in excess of 100,000. A president judge assigns the associate justices to the various branches of the court, as does the Chief Justice of the Chicago Municipal Court, whose members are likewise elected. Trials without jury are encouraged, but jury trials can be insisted upon by defendants.

The misdemeanant's division was created by the amendments of 1915. But its coverage is not on misdemeanants in the ordinary statutory sense of English and American law. This division of the court was meant to accord the same treatment to cases of minors from sixteen to twenty-one, and cases of women accused of disorderly streetwalking and common vice, as accorded to children's cases under sixteen, and hence to approach the problem of petty offenses in a social rather than a summary legal way. It has been separated into the boys' and women's misdemeanant divisions. The women's misdemeanants division has a separate building and has provision for medical and mental examinations, identification and fingerprints, and detention quarters.

The probation department of the total court serves primarily the juvenile, domestic relations, misdemeanants, and criminal divisions, and constitutes the hub for the treatment of cases. Probation service is conceived in the broader terms of follow-up guidance of cases, and not narrowly in the sense of a checkup on the good behavior of cases placed on probation. The probation department also investigates cases prior to hearing and tries to adjust as many as possible outside court, *i.e.*, without a court hearing before a judge. Among a long list of personnel on the pay roll of the court, as of 1930, were to be found 155 probation officers, 2 supervisors of probation, 1 chief probation officer, 4 psychiatrists, 13 interviewers, and 31 investigators, which gives some idea of the effort to deal with cases in terms of social welfare and individualized treatment.[1]

The medical department of the total court, organized in 1918, undertakes to service all divisions of the court, by running physical, mental,

[1] See SHENTON, CLARENCE G., *History and Functions of the Municipal Court of Philadelphia*, p. 19, Thomas Skelton Harrison Foundation, Philadelphia, 1930.

and psychiatric examinations on cases referred to it. This department had 11 full-time nurses in 1937, half of whom are medical probation workers who attempt to follow up recommendations on the outside. Functioning for the juvenile and misdemeanants division, a labor bureau attempts to find jobs for needy cases—the type of work best suited to the individual case—and particularly to find employment for cases released from institutions. Curtailed heavily by lack of funds, the bureau was able to secure 489 positions in 1937, 400 for boys and 89 for girls.

The Criminal Division functions less like a socialized court than do the juvenile and misdemeants divisions. A defendant can waive jury trial or can demand trial by jury. The Criminal Division does have and use probation service, which is somewhat differently applied than in the juvenile and misdemeanants division. In the criminal division of the Philadelphia Municipal Court, investigation (except in fornication and bastardy cases) is not made until after a case has actually been placed on probation by the court. If a defendant is fined and cannot pay, he is placed under probationary supervision in order to guarantee and aid the payment. A case might be placed under probationary supervision in order to insure proper restitution when this disposition has been ordered by the court.

The Boys' Misdemeanants Division may be taken as indicative of the socialized procedure and individualized case handling, especially apparent in the juvenile and misdemeanants divisions. Informal hearings in court are used as far as possible. Investigations by the probation department are relied upon to determine what sort of handling the boy needs. In some apparently obvious cases, the boys are sent to the medical department for physical and mental examinations. The probation department also undertakes to supervise the boys if they are placed on probation by the court. In 1937, 415 boys' cases were heard by the court; 172 were discharged; 3, referred to another court; 6, held for grand jury; 114, placed under supervision of the court; 36, committed or referred to a social agency; 48, committed to institutions for delinquents; 28, committed to an institution for mental treatment; 8, to an institution for medical treatment. In 1937, 111 cases were adjusted without court hearing.[1]

The Domestic Relations Division, as well as the one in the Chicago court, is socialized in organization and relies heavily on individualized case work by social workers. Social investigation of cases, interviews for the discussion of grievances, court hearings with an opportunity to air grievances, follow-up supervision of cases and enforcement of the court's orders constitute the informal, socialized procedure and the individualized

[1] *Twenty-fourth Annual Report of the Municipal Court of Philadelphia for the year* 1937, compiled by Frank S. Brown, statistician, pp. 53, 104–105, 138, 195, 198.

treatment. As in the Chicago branch, the social workers in the Domestic Relations Division of the Philadelphia court try to adjust differences between married persons without resort to court hearing.[1]

Background History of Juvenile Courts

Outstanding among special court developments that have arisen to offset the categoric, summary justice of regular criminal courts has been the rise of juvenile courts. They have attempted to deal with children not so much in accordance with legal justice as with the welfare, protection, and needs of youths getting into difficulties.

The immediate social background of the juvenile court development is to be found in early nineteenth-century provisions for preventing juveniles from becoming steeped in crime. As a matter of fact, it appears from the available historical data that special provisions for juveniles in houses of refuge, the forerunner of modern juvenile reformatories, antedated special juvenile court provisions, and that the emphasis on special protective and correctional institutions for juveniles, separate and apart from adult prisons, had much to do with the effort to get special and separate handling of juvenile cases in court.[2] The reason why special court handling lagged behind special institutional handling is not clear.

From a legal point of view, the background of the juvenile court development lies in the extension of the principle of chancery to juvenile offenders. By the time of the rise of the juvenile court, the principle of the state's exercising guardianship over neglected, dependent, and destitute children was well established. In fact, by this time the modern state had become the ultimate parent of children anyhow. Consequently, the extension of this ultimate parenthood and guardianship to delinquent as well as dependent children was not difficult in concept or practice. And the application of chancery court procedure to juvenile offenders and the shielding of them from adult criminal court procedure became the means by which the state could guard and watch over its erring children.

The Forerunners of Special Juvenile Courts

The immediate forerunners of the juvenile court development have been traced by Lou. According to this authority, the Juvenile Offenders Act of England in 1847 made some special provision for trial of juveniles under fourteen. An ordinance in Switzerland in 1862 attempted to curtail publicity in cases of young persons and specified that these cases should be heard apart from adults. Provision for separate hearing and

[1] *Ibid.*, p. 103.

[2] See pp. 349–352.

probation of children under eighteen was made by the State Children Act of South Australia in 1895. In Massachusetts a law of 1869 provided for the presence of a visiting agent or an officer of the State Board of Charity at the trial of juvenile cases. In 1870 separate hearings of juvenile offenders were required in Boston, while a law of 1872 in Massachusetts authorized the governor to designate and commission justices of the peace to act as trial justices for juvenile cases. New York State in 1877 passed a law prohibiting a child under sixteen "in any prison or place of confinement, or in any court room or in any vehicle in company with adults charged or convicted of crime, except in the presence of proper officers."

The first state-wide probation system covering offenders of all ages was inaugurated in 1880 in Massachusetts. The mayor of Chicago in 1861 was authorized to appoint a commissioner "before whom boys between ages of six and seventeen could be brought on charges of petty offenses." The governor of Michigan in 1873 was given authority to appoint in each county an agent to take charge of delinquent boys under sixteen and delinquent girls under seventeen, and of dependent children committed to institutions or placed out in families, as part of the work of the State Board of Charities and Corrections. New York State in 1892 made provision for separate trial, separate docket, and separate record of children's cases, as a new section in its penal code. The Board of Children's Guardians law of Indiana, passed in 1891 and as amended in 1893, allowed the board to petition the circuit courts to gain custody over a child under fifteen who was dependent, neglected, incorrigible, and "sometimes delinquent," until the child became of age. The state of Rhode Island enacted a law in 1898 which authorized separate hearings and separate detention for juvenile offenders, and required the presence of state and private agencies at their trial.[1] A law of Pennsylvania, passed in 1893, required that no child under sixteen "shall be placed in any apartment or cell of any prison or place of confinement, or in any courtroom during the trial of adults, or in any vehicle of transportation in company with adults charged with or convicted of crime."[2]

The first definitely organized juvenile court, separate and apart from other courts, was erected in Chicago in 1899. At that time the state of Illinois passed an act, which is known as the Juvenile Court Act, to "regulate the treatment and control of dependent, neglected and delinquent children." The separately organized juvenile court for Cook County (Chicago) was provided for in this act. In all other parts of the state, however, the act conferred jurisdiction on circuit and county

[1] LOU, HERBERT H., *Juvenile Courts in the United States*, pp. 14–19, Chapel Hill, N. C., 1927.

[2] SHENTON, *op. cit.*, p. 43.

courts to hear juvenile cases.[1] Following Chicago's lead, many other states in the United States passed laws empowering communities to set up specially organized juvenile courts, and several other modern countries made provisions for juvenile courts or separate, nonjury, nonpenal hearings of children's cases.

Provision for Special Juvenile Handling in Other Countries

A National Juvenile Delinquent's law went into effect in Canada in 1908 and the first Canadian juvenile court was established at Winnipeg in 1909.[2] The Children's Act of 1908 in England authorized the establishment of special children's courts for children under sixteen years old at every petty sessions, to be kept separate and apart from adults. The age limit was amended to seventeen years in 1932. According to Craven, these children's courts in England are not open to the public and the press is prohibited from publishing names of children's cases (as of 1932), although it had refrained prior to this date. The courts for children in England can deal with all cases of offenses except homicide. Jury trial for children could be demanded in serious cases if so desired, but after 1932 this was abolished. The welfare of the child, rather than legal justice, is given prime importance. Many magistrates who hear children's cases attempt to individualize the handling and treatment of offending children as based on social, rather than legal, investigation. But Craven states (as of 1933) that the facilities for individualization of treatment and for investigation are meager and poor.[3]

According to Exner, who described the situation in Germany as of 1933, reprisal for a juvenile's misdeeds has disappeared and judges have been given the latitude of dealing with juvenile offenders according to the social measures best suited to their cases. He reported that Germany had competent judges for dealing with juvenile cases, the law requiring competency and experience; that public hearings were not allowed and contacts with adult offenders in the legal process were avoided; and that the law required the juvenile court to work in cooperation with public and private organizations for the protection of youth.[4]

From Gleispach's description of juvenile handling in Austria (prior to the absorption by Germany), the courts of assizes were competent to hear only political offenders in juvenile cases. Otherwise, juvenile offenders were heard by the courts of magistrates. Teachers and social

[1] Lou, *op. cit.*, p. 19.

[2] *Ibid.*, p. 15.

[3] Craven, Cicely M., "The Progress of English Criminology," *Journal of Criminal Law and Criminology*, Vol. 24, pp. 244–245, 1933–1934.

[4] Exner, Franz, "Development of the Administration of Criminal Justice in Germany," *Journal of Criminal Law and Criminology*, Vol. 24, pp. 250–251, 1933–1934.

workers were on the register of magistrates. Guardianship of children was the principle; education, the concept in juvenile court or protective work. A juvenile court counsel investigated the circumstances of the case and supervised cases placed on probation or otherwise disposed of. Placements in foster homes and in educational institutions were an important part of the juvenile counsel's work. The age limit for juvenile handling was eighteen years.[1]

The Netherlands has had juvenile judges in charge of juvenile cases since 1921. The question of guilt, criminal responsibility, and punishment in juvenile cases is put aside in favor of disposing of cases according to the best interests of society. If a child is not yet sixteen, he can be returned to his parents without punishment. But usually juvenile offenders under eighteen are educated and looked after by the government or private institutions until they reach the age of twenty-one. The juvenile judge can give a child a short sentence to an institution and can also put a child under a special guardian.[2]

Court Handling of Juvenile Offenders in the Soviet Union

Since the socioeconomic developments in the Soviet Union have been the object of considerable speculation by the rest of the world, it is of interest to note how the cases of juvenile offenders have been handled in that country. Shortly after the revolution, juvenile commissions were established in the Soviet Union in 1918 and had jurisdiction over offenders up to seventeen years of age. These commissions were composed of standing committees, composed of a judge, an educator, and a doctor, and were created to treat as well as prevent juvenile delinquency. The treatment, instead of being punitive, was supposed to be medicopedagogical in nature, while the preventive part of the work was supposed to be accomplished by cooperation with auxiliary party, labor, youth, and child-caring organizations.[3]

Certain revisions in the criminal responsibility of children were made from time to time up to 1935 (the date of last cited information). These concern ages of exemption from responsibility and ages for the application of medicopedagogical measures, as cited in the quotation from Hazard on pp. 314–315.

In 1935, however, perceiving that the previous method of handling juvenile offenders did not meet the problem of delinquency under the later phases of Soviet Union development, decrees were published abol-

[1] Gleispach, W., "Twenty-five Years of Criminology in Austria," *Journal of Criminal Law and Criminology*, Vol. 24, pp. 185–186, 194, 1933–1934.

[2] Bonger, W. A., "Development of the Penal Law in the Netherlands," *Journal of Criminal Law and Criminology*, Vol. 24, pp. 262–264, 1933–1934.

[3] See quotation from Berman on pp. 314–315.

ishing the older juvenile commissions and providing for the handling of juvenile cases over twelve in special branches or sittings of the general courts. However, the individual welfare treatment was not thereby given up in favor of punitive handling of cases. Accompanying the shift of juvenile cases to the regular criminal court, the 1935 decrees attempted to strengthen measures for prevention of juvenile delinquency and placed the emphasis of responsibility on families and on other organizations and agencies. The new decrees seemed to be motivated by the fact that juvenile offenders in the later phases of socioeconomic development in the Soviet Union were being produced by family neglect and inadequate home and institutional life.

Berman's Statement.—On April 8, 1935, the full text of an official decree, entitled "Regarding Measures to Combat Crime among Juveniles," was widely publicized all over the Soviet Union. This decree, commonly referred to as "the Act of April 7," contained only two brief provisions: (1) that all juveniles twelve years of age and older apprehended stealing, committing violence, inflicting bodily harm, committing murder, be brought before the criminal courts where the proper punishment may be applied to them and (2) that adults found guilty of having encouraged juveniles to commit offenses, or actually driving them to perform criminal acts, or to indulge in speculation, prostitution, or begging, be sentenced to no less than five years imprisonment.

This was followed a few weeks later by a second set of decrees, more comprehensive than those of April 7 and supplementary to them. Some of the articles contained therein provided for (1) the improvement and extension of institutions for homeless children, (2) more effective steps against hooliganism and general petty violations by juveniles, (3) setting up neighborhood recreational facilities in cooperation with tenants' committees, (4) the assignment by the Communist party, Communist youth organization, and the trade unions of some of their best equipped members to assist in work with juvenile delinquents, and (5) further increasing parental responsibilities for the conduct and welfare of their offspring. It also contained a brief but telling sentence which provided for the abolition of the juvenile commissions, the Soviet juvenile courts.

The juvenile delinquents of the early and middle twenties were predominantly orphaned, homeless, and illiterate youths. Not so the young offenders of the thirties. Available data indicate that the juvenile delinquents of the recent years have been those whose parents are living, who have been living at home, and who had been attending school either at the time of arrest or shortly before that.

Inadequate home life is only one link in the chain of factors contributing to delinquency. Malfunctioning schools, poorly equipped and understaffed children's institutions, and ineffectual legal machinery were all found to have been responsible for the situation, and therefore to deserve condemnation.

Children's institutions were found to suffer from inadequate personnel and from the wrong approach to their wards. Two criticisms leveled against the schools were their readiness to expel difficult pupils, and their failure to provide

after-school activities for a large number of unsupervised pupils. There were numerous instances on record of students who, upon expulsion, were drawn into an antisocial neighborhood gang which terrorized both teachers and pupils and created general havoc around the very school from which they were expelled.

But it was the juvenile commissions which suffered the brunt of society's failure successfully to cope with the problem of the youthful offender. These "commissions for the affairs of juveniles," set up in January, 1918, soon after the October revolution, had been considered, inside as well as outside the Soviet Union, the last word in the legal approach to minors. They were composed of standing committees of three—a jurist, a physician and a pedagogue—with an auxiliary body from representatives of political, youth, labor, and child-care organizations. Within their jurisdiction came all juveniles up to seventeen years of age, regardless of their offenses. The function of the commissions was both to treat and to prevent juvenile delinquency. The treatment was to be essentially of a medico-pedagogical nature, and excluded aspects of punishment. The prevention of delinquency was to be achieved by means of a coordination of the auxiliary groups in a campaign against antisocial tendencies among the young. This also involved the setting up and utilization of already existing community facilities which would aid in the socialization of youth. The commissions, in short, were to be the hub around which the entire program of child problem work was to revolve.

That was what the commissions were expected to accomplish. Whatever their achievements had been in the past, recently they were regarded as having fallen short of their objectives. The commissions failed, according to their critics, because they were structurally unequipped and functionally circumscribed by law to operate effectively. They were finally put out of existence in the spring of 1935.

Since the new decrees went into effect, special branches of the general courts have been handling offenders twelve years of age and over. Theoretically these courts may regard juvenile offenders on the same level as adults, but personal observation of these courts in action indicates that they assume an individual approach. Each juvenile offender is treated, not in accordance with his offense, but with the degree of his "social neglect." Of the numerous cases which the author witnessed in the Moscow court, there was not a single instance of the application of the full letter of the law to a juvenile. In the case of adults, however, where such people were found guilty of contributing to the delinquency of minors (their own children or those of others), the court's attitude was often unbending, punishing these offenders with years of imprisonment, as provided by law.

The function of the Soviet courts seems to extend beyond passing on the question of guilt or innocence.[1] The courts also tend to reach out into the community by way of educating the public in delinquency and crime prevention. In a case where neighbors testified against chronic parental neglect of the defendants, the judge assailed the very witnesses for not having taken action sooner, before the complete breakdown took place. "Why, this was just the case for the Comradely Court to consider!"[1]

[1] BERMAN, NATHAN, "Juvenile Delinquency, the Family, and the Court in the Soviet Union," *American Journal of Sociology*, Vol. 42, pp. 682–689, 1937.

Hazard's Statement.—Until 1919 judges had no criminal codes to guide them but continued to administer in accordance with their revolutionary conscience. In practice children were not convicted for crime, but were turned over to educational organs for care in labor communes. By 1919 the elements of a system of Soviet criminal law were published, and these declared that children under fourteen years of age were not to be held responsible criminally for their actions. Those between fourteen and eighteen were to be subject to the criminal laws only if they acted wittingly. Juvenile delinquents were still put in correction homes but this system did not prove successful as the country was going through such trying periods of intervention and civil war that little was possible. Starvation periods were not times in which children could be reformed, but with the return of more normal conditions, the first full criminal code was promulgated in the R. S. F. S. R. This document, effective June 1, 1922, provided that children under fourteen were in no way to be held responsible for their acts. Those between the ages of fourteen and sixteen were to be subjected not to judicial measures of social defense but to medical-pedagogical correction. Here was inaugurated a principle which was to reappear with a change in age limits until the reforms of 1935. One novel provision of the 1922 code permitted the committee on distribution of children among children's institutions to appear before the People's Court in the region in which a minor might be confined in a labor reform institution and ask that the period of detention be extended beyond the period originally named until the child might be considered reformed, but not longer than one-half the original commitment. This provision was removed in the 1926 code.

The 1926 code in the R. S. F. S. R. divided minors into three groups. It declared that children below the age of fourteen would not be responsible under the usual provisions of the code, but could be subjected only to medical-pedagogical measures administered by a special commission for juvenile cases. This commission in its final form was composed of a representative of the People's Commissariat of Education as president, a people's judge, a doctor, and a school inspector. Children from fourteen to sixteen might be subjected to the provisions of the criminal code if the special commission thought such a procedure advisable, while those over sixteen were treated like adults. This rule was simplified in 1929 so that only two classes were created: children under sixteen being brought before the commission for the application of medical-pedagogical measures, and those over sixteen being taken to the People's Court for application of the usual articles of the criminal code. The code required that the penalty in these cases be reduced by one-third of the penalty which might be given to an adult in such circumstances, and it specified further that in no case could it be more than half maximum penalties, (*i.e.*, not more than five years' deprivation of liberty for serious crimes and six months of supervised toil without imprisonment in the case of lesser offenses).

This special treatment of minors continued until the reforms of 1935. By the law of April 7, 1935, a child from the age of twelve is liable under the regular provisions of the criminal code if he commits crimes of larceny, rape, bodily injury, mutilation, murder, or attempt to murder. The Supreme Court of the U. S. S. R. later interpreted this as also including obtaining of property by means of fraud. This new law means that children under the age of sixteen are no longer

immune from punishment if their crime falls within this classification, and those between sixteen and eighteen do not have their penalties automatically reduced. In practice conditional sentences are now given in most cases except when it be that of a recidivist.

The old commissions for juvenile cases were abolished, and the People's Courts regained jurisdiction, but special sittings of the People's Courts are arranged in the larger cities and all appeals go to a special bench of the cassational court. In case a crime is not within the specified list, the child is still turned over to the People's Commissariat of Education for the administration of educational measures, but the parents or guardians are held criminally liable for permitting their children or wards to act in a rowdy manner in the street. They may also be fined two hundred rubles by an administrative tribunal of the militia.

The new law does not, however, permit the application of the extreme penalty —shooting—to minors, since section 22 of the criminal code forbidding the application of this penalty to pregnant women and minors has not been repealed. This does not mean that penalties must not be severe. On the contrary, the courts have been criticized for giving light penalties to children, and the Supreme Court of the U. S. S. R. has felt obliged to warn that strong penalties should be given if the case warrants. At the same time the Supreme Court demands that special examiners be delegated for juvenile cases, and that there always be a preliminary sitting to check the prosecution's preparation and make sure that a child is not subjected to the psychological danger of being brought into court when no case may be made out against it. Children when arrested must be kept isolated from adult criminals. Further protection is provided in that all cases are to be reviewed by special tribunals of the appellate-cassational courts.[1]

Juvenile Courts in the United States

Following the lead of Illinois, practically every state in the United States passed juvenile court legislation. Generally speaking this legislation provided for the handling of juvenile offenders separate from adults and apart from regular criminal courts; for the establishment of special juvenile courts in communities that demanded them (usually the larger cities); for juvenile cases to be heard by county judges or circuit judges in special juvenile sessions; for the age jurisdiction of juvenile handling, variously placed at sixteen, seventeen, eighteen, and up to twenty-one years of age; sometimes for concurrent jurisdiction in serious offenses with regular courts; for the handling of juvenile offenders, as well as neglected and dependent children, under chancery or guardianship principles; for separate or special detention of juvenile offenders apart from adults; for the use of probation, commitment to correctional or training schools; or other means of disposition as best fit the needs and welfare of unfortunate children.

[1] Hazard, John N., "The Child under Soviet Law," *The University of Chicago Law Review*, Vol. 5, no. 3, pp. 442–444, April 1938.

In actual practice, all the elements of police court or criminal court procedure and methods were not eradicated from juvenile court procedure at once. Some of them persisted, such as, use of lawyers, attention to evidence of guilt, use of testimony of witnesses, use of fines and definite sentences, punitive summary attitudes on the part of court officials. These hang-overs from criminal court procedure are gradually being eliminated as practices and policies of social-welfare handling become more known and appreciated by juvenile court authorities.

The state laws enabling special guardianship or welfare handling of juvenile offenders could not eliminate the right to jury trial and the right to legal counsel, if and when the cases demanded it. However, these rights have been rarely insisted upon. Consequently, for all practical purposes the ideal of informal, chancery, socialized court procedure in juvenile cases has pretty well been carried out.

Specialized juvenile courts, with their own buildings and agency machinery, have increased progressively since the founding of the first separately organized juvenile court in Chicago. But numerically they are in the very small minority, if we take their total and compare it with the total number of counties in the United States—assuming for the moment that each county seat potentially should have a specially organized juvenile court. On the other hand, the relatively small number of specially organized juvenile courts actually covers a considerable proportion of the total population of juvenile court population in the United States. The reason is that they are located in practically all the larger cities. But the vast majority of counties in the United States do not possess specialized juvenile courts and rely mainly on the auspicies of county court judges to hear cases of juvenile offenders. The informal chancery procedure is followed fairly well by county judges, but they have practically no machinery or personnel to assist in the proper investigation and disposition of juvenile offenders. While this point is not definitely known from actual statistical study, the strong suspicion is that cases of juvenile offenders are handled by county judges pretty much in accordance with prevailing sentiment, *i.e.*, if not much consternation accompanies a case in court and it is a minor infraction, the case is dismissed or possibly fined. If the case is more serious or has aroused indignation in the community, the child is likely to be sent to the juvenile reformatory. Most county judges have no facilities to place children on probation and most small-town and rural communities do not understand or sympathize with any dispositions other than dismissals, fines, and commitments.

It has been found that the attitude, training, and experience of juvenile court officials have much to do with determining the work of the court as a social-welfare agency for children and with surmounting the persisting police court or criminal court tactics in the conduct of the

work. Attempts have been made to get judges, probation workers, and other officials of the court who have a social-welfare point of view and have had professional training that equips them for social-service work with children. And attempts have been made to keep the appointment and tenure of office in juvenile courts out of politics. Such efforts to ensure a high plane of child-welfare work have been applied with some modicum of success, mainly to the separately and specially organized juvenile courts, but have not reached the vast majority of county judges, who have no facilities other than their own informal hearings to expedite the handling of children. The hope in the vast majority of counties without facilities for doing an adequate piece of work with delinquent children lies in obtaining for each a probation worker who can look after the social investigation and follow-up service of cases.

Separate Detention for Children

In the background history of moves leading up to juvenile court laws in the United States, detention of children separate from adults was considered quite as important as separate informal hearings of cases. When the first specially organized juvenile courts were established, provision was made for the building of a special juvenile detention home as part of the total setup. These detention homes were the substitutes for jail, places where children could be detained while awaiting investigation and hearing. But experience has shown that these large detention homes have had all the limitations of reformatories and have been considered by children themselves as penal institutions. Efforts have been made to improve the operation of these large detention homes, to surmount the punitive features (bars, locks, discipline, guards), to introduce educational and leisure-time activities, to keep the length of detention as short as possible (less than a week). Substitutes for juvenile detention homes have been introduced and may in time reduce the former institution to use for most difficult juvenile cases—those that need maximum security even while awaiting trial. Many juvenile courts have found that the ordinary erring child can, after arrest, be turned over to responsible parents who will vouch for the appearance of the child in court on such and such dates of hearing. This substitute occasions no expense of detention and, at the same time, is much better for the child as well as for the parents. Some courts have tried private-family boarding homes as a substitute for the mass detention homes. In girls' cases and in the younger, less serious cases of boys, it has been found that, where it is not advisable to allow the child to remain at home during the few days prior to court hearing, children can be placed in properly supervised family homes, which offer the benefits of wholesome home atmosphere rather than the atmosphere of a penal institution. Private-family boarding-

home care as a means of detention has been found to be cheaper and better for children.

The problem of separate juvenile detention has not been very well solved in small counties that have practically no facilities for conduct of juvenile court work. In such counties juvenile offenders, where detention is necessary, are usually placed in county jails with adults, in a special room to themselves but not always actually apart from adults, and less often in the home of the county jailer. Even in the communities which have established separately organized juvenile courts, there has been a long uphill fight to see to it that juvenile offenders do not get taken to regular jails when arrested by the police but are turned over to juvenile court authorities before being housed in jail. In consequence, very few juvenile offenders in communities with a specially organized juvenile court are detained today in adult jails.

Probation Service in Juvenile Courts

Probation service in juvenile courts has become the mainstay of court operation as a welfare agency. The two principal features of probation service consist of (1) a preliminary social investigation, so that the case may be disposed of by the court according to the needs, and of (2) the follow-up supervision of cases placed on probation (suspended sentence). Adequate probation work seems to require a small case load per probation worker and competent probation workers, who know how to make social investigations, how to follow up cases, and how to devise a rehabilitation program for individual cases. Efforts have been made almost continuously to improve the quality of juvenile probation work and to surmount the limitations of inadequate budget, large case loads, poorly equipped personnel, and political manipulation of appointment. But probation service in juvenile courts is still far from adequate.

Policies of Disposition and Intake

According to the 1934 statistics from thirty juvenile courts in the United States, the principal dispositions were: dismissed, adjusted, or held open without further action, 47.5 per cent; supervised by probation officer, 30.5 per cent; committed to institution or referred to an institution, 11.1 per cent; committed or referred to an agency or an individual, 4.9 per cent; restitution, fine, or costs ordered, 1.2 per cent; other dispositions, 4.8 per cent.[1] Fines and restitutions are almost never used. Overlooking, as judged from the category including dismissals, adjustments, and held open, is the most prevalent form of disposition; probation,

[1] U. S. Department of Labor, Children's Bureau, *Juvenile-Court Statistics*, year ending December 31, 1934, Publication 235, p. 31, Washington, D. C., 1937. Calculations made by the author from enumerations, omitting dispositions not given.

next; commitment, third in prevalence. It should be borne in mind that the juvenile courts that report their statistics to the Federal Children's Bureau are almost wholly specially organized juvenile courts. The dispositions of judges in counties having no special court facilities would present a far different picture if statistics were available. The best guess is that commitments would loom large and probation would be almost negligible (unused).

Even in the separately organized juvenile courts great variation in dispositions will be found, from court to court. The variations can be so extreme that it looks as if some courts have a punitive or penal policy and others a liberal or welfare policy. The proportional use or reliance on the various types of disposition reflects the court's policy, attitude, and facilities. From a social-welfare point of view, the ideal policy in disposition might be to have an overwhelming proportion of children placed on probation, a small percentage sent to institutions (only in cases of last resort, when all other measures fail), and no fines or dismissals.

Juvenile courts in the United States vary widely also in their policy of intake of cases of juvenile offenders. Some courts have the policy of dealing officially with all cases brought to their attention, while others, in varying degrees, bring only the serious ones before the judge for official disposition and deal with the minor infractions in an unofficial manner in the field or in unofficial chambers of the court by probation officers and in a very few instances by referees.

While juvenile courts deal mainly with delinquent and dependent children, there has been a trend to extend the jurisdiction and services beyond these two main lines of work. Hence, in some instances the supervision of mothers' pension cases, the handling of desertion and nonsupport cases involving minors, the hearing and settlement of divorce cases, of school nonattendance and truancy cases, and of cases of parental neglect and contributory delinquency have been given over to juvenile courts. In fact, many authorities are of the opinion that juvenile courts should be part of a large family court, handling cases of domestic relations as well as cases of children.[1]

[1] See RECKLESS, WALTER C., and MAPHEUS SMITH, *Juvenile Delinquency*, N. Y., pp. 225–255, 1932; also, see Children's Bureau Publications 65, 70, 104, 121, 141, for material on development and organization of Juvenile Courts in America.

CHAPTER XVII

THE DEVELOPMENT OF PRISONS AND REFORMATORIES

Several lines of development converged on the growth of prisons and reformatories as they are known today. The use of dungeons, of labor in the mines, of galley service, of jails and workhouses, of transportation and penal colonies in ancient and modern times is clearly in the background of the prison. But perhaps the most important factor in the growth of prisons was the decline in usage of capital punishment, corporal punishment, and infamous or shaming punishment. When the diminuendo of severe punitive justice was felt, modern countries were faced with the necessity of providing places of confinement as institutions for serving a sentence of imprisonment. The jails were merely prisons of detention. They detained the prisoner awaiting trial and awaiting execution of sentence. The houses of correction as they developed in early modern England more nearly conformed to the present-day conception of a place of imprisonment but they housed mainly moral recalcitrants, prostitutes, and vagabonds who were to suffer temporary hardships or hard work as a sobering and disciplinary gesture. The English penal colonies, operating under the rule of transportation for clergyable offenses and offenses not calling for other punishment, most nearly conformed to the modern prison as an institution to serve a sentence.

The fact is that the modern prison is primarily a nineteenth-century development. Modern countries had what they called prisons but they were not places of penal servitude—they were primarily jails. And the fact that many prisoners were left in them interminably and sometimes lost in them was due not to the fact that they were places of servitude but to the faulty or whimsical operation of justice. For the conception of special convict prisons had not dawned and did not grow until modern society realized it had to make provision for offenders it was not executing, subjecting to corporal or iniquitous punishment, transporting, subjecting to labor or fine. In other words, modern prisons had to await the development of a concept of imprisonment as a punitive measure, to fill a need not provided for by any other punitive measures and to take up the slack in the declining usage of the older forms of punishment. Important, too, is the fact that the concept of imprisonment and of the convict prison is related to reform agitations that arose at the end of the eighteenth century and aimed to humanize the penal system and the evils of indiscriminate mass congregation of prisoners in the jails.

Origins of the Penitentiary

Two of the signal experiments with modern prison methods were conducted in the United States: one being known as the Pennsylvania system; the other, as the Auburn (New York) system. However, the instigators of the Pennsylvania and Auburn systems cannot be accredited with originality, since they merely carried out ideas obtained from England and Europe, which at the end of the eighteenth century was aflame with the spirit of penal reform. The writings of Montesquieu, Beccaria, John Howard, and Jeremy Bentham, to mention only four of a great array of philosophers and agitators for social and political reform, were in large part responsible for the motivating power at the back of the reformation of the penal system.

While the Pennsylvania and Auburn systems of penitentiaries were looked upon by the rest of the world as initial experiments, actually the patterns and concepts of prison discipline contained in them were anticipated by and indirectly borrowed from several European sources, running back at least 200 years. Barnes claims that the idea of what became one of the fundamental tenets of the Pennsylvania system was borrowed by the American reform leaders from an English jail at Wymondham, Norfolk, England, erected in 1784 to initiate certain discoveries and recommendations made by John Howard, the famous English penal reformer at the time. The idea in question was that of solitary confinement, to aid penitence and reform. According to Barnes, the new Wymondham jail provided for separation of hardened from first and petty offenders and of men from women, for separate cells at night and for work in shops during the day, and for solitary confinement in separate cells for the most incorrigible offenders. Sir Thomas Beevor, who erected the jail, was said to have been influenced by Howard's writings.[1]

Howard is supposed to have obtained the idea from the House of Correction for errant boys, erected in 1703 as a part of the Papal Hospice of Saint Michael in Rome, which he visited in his prison investigations. This institution used the cellular system as a mean of providing opportunity for penitential reformation.[2] The principles of reformation and cellular handling at Saint Michael were in turn borrowed from the experiment in secret-cell correction, conducted by Filippo Franci at the Hospice of San Filippo Neri in Florence, beginning in 1677.[3] The main difference

[1] Barnes, Harry Elmer, "The Historical Origin of the Prison System in America," *Journal of Criminal Law and Criminology*. Vol. 12, pp. 42–43, 1921–1922.

[2] Sellin, Thorsten, "The House of Correction for Boys in the Hospice of Saint Michael in Rome," *Journal of Criminal Law and Criminology*, Vol. 20, pp. 533–553, 1929–1930.

[3] Sellin, Thorsten, "Filippo Franci—A Precursor of Modern Penology," *Journal of Criminal Law and Criminology*, Vol. 17, pp. 106–112, 1926–1927.

between the house of correction for boys in the Florentine Hospice and the one in the Roman Hospice was that, in the latter, work in common during the day was required in silence and cellular segregation prevailed at night, while in the former, cellular separation in secret was the rule throughout day and night and was broken only by fraternal visitations of two priests in charge and attendance at mass in hoods.

Franci's experiment in solitary cellular confinement for regenerative reform clearly anticipated the principal tenet of the penitentiary system developed in the early nineteenth century by Pennsylvania. In fact, Sellin contends that the very concept of cellular segregation for penitence must be traced back to the Catholic Church, which developed the practice of penitence and reflection in isolation in monastic cells. Don Jean Mabillon's posthumously published essay (1724), entitled *Reflections on the Prisons of the Monastic Orders,* indicates, according to Sellin's researches, that the origins of the penitentiary idea are to be found in monastic rule. This brilliant French Benedictine monk (1632–1707) likewise anticipated in his *Reflections* many of the principles of the nineteenth-century penitentiary discipline, although his notions remained sterile and had no direct influence on later developments.[1]

It will be remembered that work in common during the day and separation in cells at night, which constituted the main plan of inmate handling at the Papal Hospice, became the principal tenets of the Auburn prison experiment. The therapeutic value of work, as an important cog in nineteenth-century prison discipline and reformation of prisoners, was undoubtedly carried forward from the workhouses of England and Europe of the sixteenth and seventeenth centuries. Sellin claims that the idea of regeneration through work, which was part of the program of discipline in the Papal Hospice, was borrowed from the Amsterdam workhouse.[2]

The steps leading up to the erection of the Amsterdam workhouse have been uncovered by von Hippel. In 1578, as a result of a soul-stirring hearing of a case of a sixteen-year-old thief and burglar, the aldermen of Amsterdam met with the mayor and court "to find a proper means to hold such children in continued work and possibly thereby to lead them to a better life." On July 19, 1589, it was voted in court that officials inquire into the possibilities of establishing a place where all vagabonds, offenders, and delinquents could be incarcerated and allowed to work for a length of time commensurate with their misdeeds, since there were daily several prisoners, mostly youths, whom the aldermen would not sentence to imprisonment because of their youth. The former

[1] SELLIN, THORSTEN, "Don Jean Mabillon—A Prison Reformer of the Seventeenth Century," *Journal of Criminal Law and Criminology,* Vol. 17, pp. 601–602, 1926–1927.

[2] SELLIN, THORSTEN, "Filippo Franci," *op. cit.,* pp. 111–112.

Klarissencloister was obtained for the purpose. In April, 1595, the rebuilding of this vacated structure was completed and on February 3, 1596, the first twelve inmates were admitted.[1]

As a result of his researches, von Hippel claimed that the idea of using a penal institution for reformative regeneration of inmates and of regeneration through constructive labor first crystallized in the establishment of the Amsterdam workhouse. More recently, however, Van der Slice contended that one can hardly escape the conclusion that the antecedent houses of correction in England really provided the model for the Amsterdam workhouse. He found that the importance of these houses of correction as the fountain head of penal reformation was lost sight of because they have been so closely identified with the administration of the Elizabethan poor laws. Actually, they functioned as institutions for the imprisonment of misdemeanants, such as rogues, idlers, vagabonds, strumpets, and whores, to whom the discipline of hard labor was applied during short-term sentences. The earliest and most notorious house of correction was the Bridewell, which was established in London in 1557 and housed the "lewd and idle," who were taken there by the beadles. The Bridewell had a diversified work program. Many other houses of correction, following the Bridewell, were erected in England for the care and suppression of vagrants and rogues. Likewise, when the idea of establishing a workhouse struck the city fathers of Amsterdam, a generation later than the Bridewell, many German cities and towns followed suit.[2]

No matter how the chain of influence and borrowing will be validated by future historical research, it is quite apparent that there were important forerunners of the penitentiary and convict prison that blossomed so prolifically in the nineteenth century, and that the principal tenets of the Pennsylvania and Auburn penitentiary systems, namely, cellular isolation and congregate work as means of reformation, were brought forward from monastic rule and the operation of workhouses.

Development of the Pennsylvania System

Returning to the agitations and developments that were immediately in the background of the Pennsylvania penitentiary experiment, it

[1] Von Hippel, R., *Die Entstehung der modernen Freiheitsstrafe des Erziehungs-Strafvollzugs*, p. 4, Jena, 1932. Von Hippel discovered a heretofore unknown manuscript of Miracula San Raspini Redivi (1612–1617), which gave the first known recorded description of the founding of the Amsterdam workhouse. See von Hippel's early publication of this manuscript in 1897, contained in "Beitrage zur Geschichte der Freiheitsstrafe," *Zeitschrift für die gesamte Strafrechtswissenschaft*, Vol. 18, pp. 419–494; also *ibid.*, pp. 47–65.

[2] Van der Slice, Austin, "Elizabethan Houses of Correction," *Journal of Criminal Law and Criminology*, Vol. 27, pp. 45–67, 1936–1937.

appears that Robert Wistar, a member of the Society of Friends (Quakers), was greatly stirred by the distressing conditions in a Philadelphia jail. Some of the prisoners were dying of starvation, and he distributed soup made at his own house to the underfed inmates of the jail. In 1776, he founded the Philadelphia Society for Assisting Distressed Prisoners but, because of the British occupation of the city during the Revolutionary War, the society ceased functioning. Later in 1783 Benjamin Rush, Benjamin Franklin, William Bradford, Caleb Lownes, and other prominent Philadelphia citizens became actively interested in reforming the barbarous penal code of Pennsylvania and advocated the abolition of capital punishment. This movement was responsible for the enactment of a law in 1786 which substituted "hard labor" for the death penalty in certain minor felonies. In 1787 the Philadelphia Society for Alleviating the Miseries of Public Prisons was organized. The lines of effort undertaken by this society had a profound effect on laying the necessary foundation for the emergence of the Pennsylvanian penitentiary experiment. The society actively interested itself in alleviating the suffering of prisoners, in advocating the reduction of capital punishment and the substitution of imprisonment, and in developing a system of prison discipline that surmounted the evils of the system of indiscriminate mass congregation of offenders characteristic of existing jails.

After the changes in the penal code legislated in 1786, which abolished branding, pillories, mutilation, and whipping and made substitution of hard labor for the death penalty in minor felonies, progressive legislative reforms in the penal code of Pennsylvania were sponsored by the society. By 1794, the death penalty in Pennsylvania applied only to first-degree murder, while imprisonment became the typical form of punishment. Corporal punishment was abandoned.

The society was instrumental in getting a law of 1790 to provide for solitary confinement of the worst types of felons—their separation from other offenders in prison. The Walnut Street jail of Philadelphia, as a result of this legislation, was converted into a prison as we know it today, a penal institution housing sentenced prisoners. It soon became evident that the Walnut Street prison did not have enough space to confine separately the most serious offenders and, consequently, the few cells available for solitary confinement were not sufficient to give the experiment of separation a fair test.

Legislative acts of 1818 and 1821 empowered the erection of two state penitentiaries in Pennsylvania—the Western State Penitentiary and the Eastern State Penitentiary—and specified that they should carry out the principle of solitary confinement. But a state controversy arose over the question of solitary confinement without labor. According to de Beau-

mont and de Tocqueville the Western penitentiary, which opened in 1827, had defects of construction that enabled prisoners to communicate all day and ruined the whole principle of solitary confinement. A commission of the legislature was appointed to investigate the matter and reported back, the same year, in favor of the Auburn system of congregate work in silence during the day and separation in silence at night. Finally, a compromise was effected before the Eastern State Penitentiary (at Cherry Hill, Philadelphia) was completed, whereby solitary confinement was still preserved day and night but labor was introduced into the solitary cell.[1] The Philadelphia Society according to Barnes was instrumental in convincing the Pennsylvania legislature of the efficacy of combining solitary confinement with labor and in having this combination enacted into law in 1829. This law really consummated the fundamental tenets of the Pennsylvania prison system.[2]

The Pennsylvania prison system finally emerged from a series of reforms and changes, mainly sponsored by the Philadelphia Society for Alleviating the Miseries of Public Prisons through the years 1783 to 1829. A statement quoted by Barnes from a report of the Inspectors of the Western penitentiary to the Pennsylvania legislature in 1854, although strongly biased toward the defense and eloquent in praise of the system, gives some idea of how the early American penitentiary experiment operated.

> Disease and mental imbecility so confidently predicted as necessarily incident to separate confinement, have resulted in health and intellectual improvement. Depraved tendencies, characteristic of the convict, have been restrained by the absence of vicious association, and in the mild teaching of Christianity, the unhappy criminal finds a solace for an involuntary exile from the comforts of social life. If hungry, he is fed; if naked, he is clothed; if destitute of the first rudiments of education, he is taught to read and write; and if he has never been blessed with a means of livelihood, he is schooled in mechanical art, which in after life may be to him the source of profit and respectability. Employment is not toil nor labor weariness. He embraces them with alacrity, as contributing to his moral and mental elevation. They help to fill the zodiac of his time, which would otherwise be spent in unavailing complaint, and fruitless importunity for release. Shut out from a tumultous world, and separated from those equally guilty with himself, he can indulge his remorse unseen, and find ample opportunity for reflection and reformation. His daily intercourse is with good men, who, in administering to his necessities, animate his crushed hopes, and pour into his ear the oil of joy and consolation. He has abundance of light, air, and

[1] DE BEAUMONT and DE TOCQUEVILLE, *On the Penitentiary System in the United States*, translated from the French by Francis Lieber, p. 10, Carey, Lea and Blanchard, Philadelphia, 1833.

[2] The main outline of facts on the development of the Pennsylvania system has been taken from Barnes, *op. cit.*., pp. 45–49.

warmth; he has good and wholesome food; he has seasonable and comfortable clothing; he has the best of medical attendance; he has books to read, and ink and paper to communicate with his friends at stated periods; and weekly he enjoys the privilege of hearing God's holy word expounded by a faithful and zealous Christian minister.[1]

The Auburn System

Following Pennsylvania's lead, New York State enacted a law in 1796 which substituted imprisonment for corporal punishment and provided for the erection of two state prisons—one in New York City and one in Albany. But only one of these, Newgate Prison, in New York City, materialized and this was erected in 1797. The indiscriminate congregation, lack of discipline, and overcrowding in this prison were not conducive to a successful initiation of the system. In fact, the overcrowding necessitated the pardoning of almost as many prisoners as were admitted in any year. Consequently, New York's first convict prison fell short of making any advance over the old type of jail congregation toward a more adequate form of prison discipline. A state law of 1816 authorized the construction of a new prison at Auburn, New York. The first wing (the southern wing) built during 1816 to 1818, contained sixty-one double cells and twenty-eight rooms housing from eight to twelve convicts.[2] A legislative act of 1819 authorized the construction of the northern wing of Auburn prison according to the principle of separate cells and the solitary confinement of certain classes of prisoners. Another act of 1821 directed prison authorities to place the "oldest and most heinous" offenders in solitary confinement, as a test case of this system of discipline; another class of offenders, in solitary for three days each week; while young offenders were to be permitted to work in shops six days each week. Eighty prisoners in 1821 were selected to be the test cases of the system of prison discipline borrowed from Pennsylvania. But this was not a test run of what later became the Pennsylvania system—solitary confinement with labor in exterior single cells. Rather, it was an experiment of solitary confinement without labor in inside single cells. New York was impatient to learn the results of this special application of the Pennsylvania system, which had got under way before the system could be established in the new penitentiaries in Pennsylvania itself. The experiment with the Auburn application of solitary confinement was fatal and disastrous.

According to firsthand French observers of the early American prisons, who commented on the results of the solitary-confinement experiment at Auburn, "the unfortunates fell into a state of depression, so

[1] *Report of the Inspectors of the Western Penitentiary*, 1854, *Legislative Documents*, 1854, p. 271, reprinted in Barnes, *op. cit.*, pp. 49–50.

[2] De Beaumont and De Tocqueville, *op. cit.*, p. 4.

manifest, that their keepers were struck with it; their lives seemed in danger; five of them had already succumbed during a single year; their moral state was not less alarming; one of them had become insane."[1]

The survivors were either pardoned by the governor in 1823 or allowed to leave their cells during the day to work in the shops.[2] A majority of the legislative committee appointed in 1824 to investigate the collapse of the experiment advocated "the repeal of the laws for solitary confinement, in connection with the full adoption of an effectual government and discipline; the same as a separate measure, nor in any case except in connection with such effective system of government and discipline."[3]

During this period of the trial experiment with solitary confinement in the New York prison, the policy of prison discipline and organization that became known as the Auburn system was being formulated by such men as Captain Lynds, warden, John Cray, architect and deputy, and Gershom Powers, member of the Board of Inspectors. The policy that came to the fore as a practical point of departure from and modification of the solitary-confinement principle consisted of congregate work in shops during the day, separation of prisoners at night, enforced silence at all times, lock-step marching formations, and special dining-room regulations. Barnes contends that Cray was responsible mainly for the formulation of the policy of prison discipline that became known as the Auburn system.[4] According to an eloquent partisan description by Louis Dwight, secretary of the Prison Discipline Society of Boston (founded 1825), who more than any other person was instrumental in disseminating the merits of the Auburn system, Auburn prison under its special system was a model of neatness, industry, and subordination, for its day. At sunrise prisoners went in lock step to the workshops; then later, in formation again, to breakfast in a dining hall, where they ate with their backs to the center and raised their hands to indicate demands. Dwight said there was the most perfect attention to labor in the shops, without a trace of distraction or whispering. At sunset the prisoners marched in lock step to their cells, where they ate their evening meal, which they had got from the kitchen. They were then free, before retiring, to read the Bible and "reflect in silence on the error of their lives." But they were not allowed to disturb a fellow prisoner. Silence prevailed at all times and in all places.[5]

The regulations, established by law for the Connecticut State Prison at Wethersfield, afford detailed insight into an early American prison that followed the main tenets of the Auburn system.

[1] DE BEAUMONT and DE TOCQUEVILLE, *op. cit.*, p. 5.
[2] *Ibid.*, pp. 5–6.
[3] BARNES, *op. cit.*, p. 53.
[4] *Ibid.*, p. 54.
[5] *Ibid.*, pp. 54–55.

The prison authorities and personnel consisted of a warden, deputy warden, overseers of shops, and guards. The latter two were forbidden to speak with the prisoners. The guards were particularly forbidden to receive from or deliver to prisoners any article or thing. The halls and cells were supposed to be swept daily. The rules called for bedding to be aired once a week in warm weather and once a fortnight in bad weather. Night pails must be clean and covered. A physician and a hospital were provided. The convicts were to labor diligently in silence during the day, were not to hide or carry any instrument, could not write or receive letters without the warden's consent, were to lock step in silence when going to meals or labor. The rations for each convict per day were listed as 1 pound of beef, 1 pound of bread, 5 bushels of potatoes per 100 rations, a porridge for supper made of 20 pounds of corn meal, 6 quarts of peas per 100 rations, pepper and salt furnished. Straw matresses were provided. Three blankets were allowed in winter. Two coarse cotton sheets were issued to each convict. Prisoners were not allowed to sleep in their clothes and were not to lie down or rise until notice was given by bell.[1]

Rivalry between the Prison Systems

The original tenet of the Pennsylvania system, namely solitary confinement, was adopted temporarily by a number of the Eastern states, only to be abandoned a few years later in favor of the Auburn plan. A heated battle arose between the proponents and supporters of both systems, which after 1825 found expression in voluminous publications.[2] This was a battle of supremacy of two rival experiments in prison discipline. By 1860 the controversy in America had subsided, since American prisons had been won over to the Auburn system. The state of New Jersey clung to the Pennsylvania system until 1858. After this, Pennsylvania went alone with its own system. The conflict over the respective merits of the two prison systems in America was largely carried on by the Philadelphia Society for Alleviating the Miseries of Public Prisons and the Prison Discipline Society of Boston, which was later bolstered in its fight by the Prison Society of New York (founded 1845). The Philadelphia group sired the Pennsylvania system; the Boston group championed the Auburn system. Barnes contends that the Auburn system triumphed in America largely because of the tireless promotional work of its champion, Louis Dwight, of the Boston society, who had developed a violent antipathy for the Pennsylvania system.[3]

[1] De Beaumont and De Tocqueville, *op. cit.*, pp. 210–216.

[2] See Barnes, *op. cit.*, pp. 57–58, footnote 55, for an excellent bibliography of the controversy over the merits and defects of both systems.

[3] *Ibid.*, pp. 56–57.

On the other hand, European observers, commissioned by their home governments to study at first hand the prison system evolving in America were more favorably impressed by the Pennsylvania than by the Auburn system and so reported back to their home governments. The principle of separate solitary confinements, as an efficacious means of moral regeneration of the offenders, was widely adopted by European governments in the erection of their convict prisons.[1] Among the prominent European firsthand observers of the American prison systems were de Beaumont and de Tocqueville from France (1831), Crawford from England (1832), Dr. Julius from Prussia (1834), and Demetz from France (1837).[2]

Even after later modifications and advances in prison handling were made in European prisons, the use of solitary cellular separation was retained as a means of handling the initial phase of confinement, from which prisoners graduated according to good showing in conduct or as a means of handling special classes of offenders. But on the continent proper, cellular isolation was the mainstay of prison systems until the time of the World War.

From the perspective we have today both the Pennsylvania and the Auburn systems would appear crude, although we might be inclined against the hardships of solitary confinement and toward the blessings of congregate prison life. However, the point is that the early American prisons should be viewed as signal experiments in state imprisonment as a form of reformative punishment. The Pennsylvania and Auburn prison systems were really test cases of an evolving new penology which the whole Western world was witnessing with respect and concern. That even the more humane and perhaps more practical Auburn system did not attain a full measure of reformation is beside the point, since even the advanced prisons of today are still in a state of becoming as far as high reformative achievement is concerned. No matter what the crudities and limitations were in the two American prison experiments, they assiduously attempted to surmount the evils of undisciplined mass herding of offenders in the forerunners of the penitentiary.

Antecedent and Parallel Jail Conditions

One has only to inspect the findings and recommendations of John Howard's surveys of late eighteenth-century prisons (mostly jails and workhouses) in order to appreciate the great distance that the Auburn and Pennsylvania systems had come in coping with problems of criminal incarceration. Some of the many awful conditions discovered by this

[1] *Ibid.*, p. 56.

[2] McKelvey, Blake, *American Prisons; A Study in American Social History Prior to* 1915, p. 16, Chicago, 1936.

retired English sheriff, who spent his private means and time in traveling over 42,000 miles in his later life in the interest of prison reform,[1] are summarized as follows: prisoners often lacked food, water, proper ventilation, bedding, and beds; evil moral consequences of herding debtors, felons, men, women, children, lunatics, and idiots together; the ravages of unsanitary conditions, jail fever, and distemper; prevalence of and spread of criminality among inmates; prevalence of gambling; loading of prisoners in heavy irons; the abuse of prisoners in privately operated jails.[2] Howard's proposed improvements and regulations for jails show by inference what evils attended the herding of human offenders in these penal institutions just prior to the development of convict prisons or penitentiaries. He recommended that jails should be built "on a spot that is airy and if possible near a river, or brook"; they should have many rooms, so that inmates can sleep alone and be separated at night particularly; "solitude and silence are favorable to reflection and may possibly lead them to repentance"; the women's ward should be separate from the men's, and young offenders should be separated from the mature; the grown men, the women, and young men should each have their own special day room and outside court; every court should be paved in flagstones and should have a commodious bath in a shed; infirmary and sick wards should be provided.[3] In regard to the regulations for administering the jails, Howard proposed that good, honest, humane, sober men be found for jailers; the sale of beer and wine in jails be prohibited and thus deprive jailers of the profits of the tap; no prisoner should be a turnkey; jailers should live on the spot and be at the jail constantly; that a chaplain, an apothecary, and a surgeon should be provided for every jail; that no prisoner should have to pay fees to a jailer; prisoners if dirty should be washed, at admission; no stable, dung heap, or fowls should be allowed in the prisoners' court; prisoners during the day should not remain in rooms in which they sleep.[4]

The newly evolving penitentiaries of the early nineteenth century surmounted many of the evils Howard found present in the late eighteenth-century prisons, or jails, especially the evils that could be corrected by better physical arrangements and prison administration. Consequently, the new penal institutions were not the unhealthy, disease-ridden, lax human zoos that the jails were. But many of the vices and contaminations of indiscriminate criminal congregation have still not been surmounted in prisons and reformatories of the present time.

[1] HOWARD, JOHN, *The State of the Prisons*, Everyman's Library, no. 835, p. ix (text from the 3d ed.), J. M. Dent and Sons, London, 1929.

[2] *Ibid.*, pp. 1–16.

[3] *Ibid.*, pp. 19–25.

[4] *Ibid.*, pp. 25–33.

Modern Jails and Latter-day Substitutions

The jail has never quite caught up with the penitentiary in overcoming the difficulties of incarceration and has lagged considerably behind the advances achieved in the penitentiary. The reason lies, perhaps, in the fact that society does not look upon the jail as seriously as it looks upon the penitentiary. It is used and conceived of mainly as a place of temporary detention and of short definite sentences. Consequently, the jail has been taken rather lightly by the public. The workhouses and houses of correction, which are also penal institutions for short, definite sentences, likewise have not made the general advances achieved by the penitentiary, or state prison.

The critical conditions of modern American jails, as found by the National Commission on Law Observance and Enforcement (*c.*1930), appear to be essentially the same in kind as those that John Howard found 150 years earlier, although they may be somewhat less vicious: idleness, close confinement resulting in lack of exercise, filth, improper ventilation, vermin and unsanitary toilet facilities, overcrowding, unpalatable and unhealthful food, indiscriminate mingling of various types of offenders, indifference and incompetence of officials, and political patronage.[1]

Some idea of the seriousness of the persisting retardation of jails may be obtained from the commission's estimate that in the United States nine times as many inmates during a given year are received in the institutions for short-term sentences as in prisons and reformatories[2] and, of course, the jails are the principal institutions for short-term offenders.

Practically every county in the United States has a local jail, receiving prisoners awaiting trial and offenders serving sentences under one year. The average population in jails is very small, estimated by the census in 1923 at less than 11.[3] Local counties have always found jails a particular financial burden and have had to content themselves with providing a bare minimum of personnel and facilities. The commission suggested the possibility of district jails, serving several counties, as a means of surmounting the basic financial burdens of supporting a higher grade of jail. It suggested the possibility of a better use of bail and indentification as a means of obviating jail incarceration to assure attendance at court trials. The commission also called attention to the possibility of erecting state-run industrial farm colonies, with a well-developed work program as a means of handling short-term offenders.[4] Attention was called by the

[1] "Probation and Parole," National Commission on Law Observance and Enforcement, *Report on Penal Institutions*, no. 9, pp. 273–274, Washington, D. C., 1931.

[2] *Ibid.*, p. 272.

[3] *Ibid.*, p. 275.

[4] *Ibid.*, pp. 276–277.

commission to the fact that several European countries have experimented with an institution of this type and that several states in the United States have already erected farm colonies for short-term offenders.

A subcommittee reporting to the National Crime Commission favored the erection of state-administered industrial farm colonies as a more adequate type of institution for handling short-term misdemeanants than the old jail. It indicated that such institutions had already developed in Belgium, Holland, and Switzerland, as well as in Indiana, Massachusetts, and the District of Columbia for the United States.[1] Even as early as the 1860's the renowned American penologist and penal reformer, E. C. Wines, argued in favor of a new intermediate type of penal institution, the district prison, which could function more constructively in the handling of misdemeanants and short-term offenders than can the jail.[2] A Connecticut Legislative Commission on jails made the point that "no state in the American Union that has once established a jail farm has ever abandoned it," and cited the fact that Florida, Illinois, Indiana, Massachusetts, Mississippi, New Jersey, Ohio, South Carolina, Texas, Virginia, the District of Columbia, and the province of Ontario, Canada, had established farm-colony institutions for short-term offenders, previously housed in jails. Indiana is accredited with having first experimented in the United States with the idea of a state farm colony as a substitute for the jail, as early as 1913.[3]

The detailed story of how a state moved into a substitute jail program ordinarily is not readily available but it happens to be available in the case of Virginia.[4] Virginia formulated plans for the development of institutions to be substituted for local county jails and to entail the most advanced penological principles. In fact, the program of the new institutions was conceived in terms of facilities for individualized treatment of individual misdemeanants.

The Connecticut commission came to the conclusion that "from the standpoint of economy and safety to society the jail, instead of being a

[1] *Propagating Crime through the Jail and Other Institutions for Short-term Offenders*, a Report submitted to the National Crime Commission by the Sub-Committee on Pardons, Parole, Probation, Penal Laws and Institutional Correction, Russell Sage Foundation, p. 26, New York City, 1933.

[2] *Report on the Prisons and Reformatories of the United States and Canada*, by E. C. Wines and Theodore W. Dwight, made to the Legislature of New York, January, 1867, pp. 67–71, Albany, 1867.

[3] State of Connecticut, *Report of the Legislative Commission on Jails with a special Study on Jail Population of Connecticut*, by Jerome Davis, chairman of the Commission, p. 3, December 3, 1934.

[4] See HOFFER, FRANK WILLIAM, DELBERT MARTIN MANN, and FLOYD NELSON HOUSE, *The Jails of Virginia; a Study of the Local Penal System*, pp. 367–373, New York, 1933; see, also, *Proceedings of the Sixty-sixth Annual Congress of the American Prison Association*, pp. 249–275, 1936.

place merely for confinement, should be rather a treatment center. Individuals should be studied in the light of physical, psychological, psychiatric, and social environmental conditions. Mere confinement in a steel cell is as unintelligent in the case of a delinquent as it would be in the case of someone who is suffering from physical ailment. The jail has succeeded in the main in keeping those sentenced to it for the length of their terms but does not deter them from committing further crimes nor prepare them in any way to take up the duties of normal citizenship. From the standpoint of society it is infinitely more important to prevent future crimes for the entire life of an individual than merely to keep him locked up for a few months and then turn him loose."[1] The Connecticut jail commission recommended the immediate establishment of the Glastonbury Farm Community to function as the treatment center for cases sentenced formerly to the local county jails for more than thirty days. The old local jails were to be retained to house those offenders awaiting trial and the offenders receiving sentences under one month's time.[2]

The movement to find a substitute for indiscriminate jail care of misdemeanants and short-term offenders is a chapter in penal history just as important as the movement to establish institutions for convicts of longer term sentences. It might even be argued that, in view of the large numerical preponderance of short-term offenders and of the initial phases of criminal maturation and recidivism as displayed by jail populations, the efforts to find an adequate treatment program for this class of offenders are of greater social importance than are those to provide for long-term prison inmates.[3]

The Irish System

The experiment that has been looked upon as setting the pattern for the most advanced type of penitentiary and adult reformatory was instituted in Ireland in 1854, under the guidance and supervision of Sir Walter Crofton. His experiment, commonly referred to as the Irish system or the progressive stage system, converted the prison into an adult reformatory, the purpose of which was to train the prisoner so as to resist temptation and lead a law-abiding life after his discharge. The Irish system put into the prisoner's own hands the fate of determining

[1] State of Connecticut, *Report of the Legislative Commission on Jails, op. cit.*, pp. 52–53.

[2] *Ibid.*, pp. 1–7, 59–61.

[3] See Hart, Myrtle Grace, "Farm Colonies for Misdemeanants (A Bibliography)," *Journal of Criminal Law and Criminology*, Vol. 17, pp. 627–639, 1926–1927, for the most comprehensive bibliography on the development of farm colonies in Europe and America.

personal destiny. The fundamental elements of the Irish system represent in several respects an elaboration of Maconochie's experiment with the use of the mark system, indeterminate sentence, and ticket of leave in the English penal colony at Norfolk.

There may be considerable question as to specific and authentic authorship of the various basic tenets of the prison policies and practices that went to make up the Irish system. Barnes, for example, contended that Maconochie initiated the mark system and remission of sentence for good behavior, that Crofton was the author of the graded system, that Marsangy sired the parole system, that Whately, Combe, and the Hill brothers championed the indeterminate sentence, and that Montesinos and Obermaier advocated the use of productive labor.[1]

In tracing the history of the prison, Frede called attention to the introductory trial of a graded system at Untermassfeld (Saxony) in 1834. The prisoners were promoted or demoted into various classes every quarter of the year, according to their behavior record. This innovation is traceable possibly to the writings of pedagogue C. A. Zeller, in his book entitled *Grundriss der Strafanstalt, die als Erziehungsanstalt Bessern Will* and published in 1824, which in turn was influenced by the famous educationalist, Pestalozzi. Frede claims that the Zeller book anticipated many parts of the modern graded system of penal discipline.[2]

Sir Evelyn Ruggles-Brise vigorously claimed that the progressive stage system, or what became the Irish system, was of English rather than Irish origin, except possibly the use of an intermediate stage of prison discipline just prior to and preparatory for discharge.[3] He contended that the Irish prison system was directly the result of the work of Sir Josuha Jebb, who was sent to Dublin to overhaul the Irish prisons and that he applied the system of progressive stages of advancement, which had been formulated at Pentonville prison in England in 1842 and in the revisions of the penal servitude acts.[4] Jebb, according to Ruggles-Brise, was asked to go a second time to Ireland in 1850, but was unable to go. Later, in 1854, Captain Crofton was made chairman of the Board of Directors of Irish prisons and applied the progressive stage system, as it had been previously worked out in England.

Caution must at all times be used in making claims of specific credit in a historically evolving institution. And it is well beyond the province

[1] BARNES, *op. cit.*, p. 59. I omitted Barnes's reference to Sir Charles Lucas as the advocator of reformation, because of the rather obvious origins of the penitentiary and regenerative reformation.

[2] FREDE, LOTHAR, article on "Gefängnissgeschichte," in the *Handwörterbuch der Kriminologie*, Vol. 1, p. 546, Berlin, 1933.

[3] RUGGLES-BRISE, SIR EVELYN, *The English Prison System*, pp. 29–30, London, 1921.

[4] *Ibid.*, pp. 25–29.

of this book to explore further into the authorship of many evolving penal-servitude practices and conceptions. For our purposes, no matter whether credit later on is taken from one and given to another, the point is that the system of adult reformatory discipline, which popularly became known as the Irish system, represented a convergence of several lines of antedating penological developments. As a system, the progressive stage plan as it was experimented with in Ireland under Crofton was certainly a significant contribution to modern penology.

According to the detailed description of E. C. Wines, the great American prison reformer and penologist, who observed it firsthand in the 1860's, the Irish prison system was geared to four stages or phases.

1. The prisoner on admission was first placed in a separate cell and isolated from others except for exercise, school, and chapel. Otherwise he remained in silence and solitude. This initial period of isolated confinement presumably lasted eight months, but could be shortened by good conduct. During the first four months the prisoner slept on a plank and his diet was frugal and his work was oakum picking—presumably, a routine, reflective chore. At the end of this trial period of four months, the successfully graduating inmate was allowed a bed and better food. His cell door was closed at first; then it was opened part of the day, finally all day.

2. The inmate graduated from initial isolation into a progressive system of classification, third class, second class, first class, and exemplary class. A certain number of marks had to be earned before the prisoner passed from one class into the next. The maximum number of credits was nine per month—three for industry (diligence), three for school (attention to education), three for general behavior. Eighteen credits were required to pass from the third to the second grade, possible in two months' time as a minimum. Fifty-four marks were necessary to graduate from the second to the first class, and 108 from first to exemplary grade. The minimum stay in second class was six months; in first class, one year. The progressive grade system was envisioned as providing a powerful incentive to the prisoner to raise himself by his own bootstraps.

Other incentives were progressively applied, consisting of rewards, privileges, gratuities (in money), badges, improved diet, better dress, better employment, and liberties. A badge of conduct, issued monthly, was worn on the left arm of the inmate to indicate his progress. Each grade of prisoner had visible differences in garb. The punishments consisted of forfeitures of privileges or gratuities, change of badge, demotion to a lower class, restriction of food to bread and water, and, in extreme instances, solitary confinement. Schoolmasters were provided for educational instruction in all four classes.

3. At this stage of the system there was a gradual removal of restraint and the instillation of self-control. The prisoner passing from the exemplary class was sent to an intermediate prison, where supervision was withdrawn and work outside the prison limits was permitted. The prisoner was locked up only at night. In the intermediate prison, which was a gradual preparation for release and the outside world, individualized handling of inmates was emphasized. Special consideration was given to the individual characteristics and traits of each inmate.

4. The final stage was discharge under a conditional pardon—a ticket of leave, known in America as parole. Supervision of the discharged inmates was given by the constabulary; in Dublin, by an interested layman who attempted to find work for the released prisoners.[1]

While Wines's description of the Irish system is an idealized statement of an experiment in progressive prison discipline,[2] it does contain substantially the blueprints of modern adult reformatory methods—initial induction, progressive adjustment to prison life, graduated self-control, individualized attention, and conditional release.

It is clear that the Irish system had gathered up conceptions, policies, and practices of a more advanced penology than was available to the Pennsylvania and Auburn systems. The superiority of the Irish system as a more adequate program for prisons, as well as its greater possibilities for rehabilitation of offenders, was patent to the wide-awake penologists and prison reformers of the day. However, the Irish system was an ideal or a blueprint toward which modern juvenile and adult reformatories and convict prisons gradually veered. It was not something that was generally adopted *in toto*, but features of it were adopted more or less piecemeal as time went on.

The Elmira Reformatory of New York State, for young males from sixteen to thirty, opened in 1877, was inspired by knowledge of the Irish system. Several states in the United States followed New York's lead in erecting specialized young adult reformatories, separate and apart from the regular penitentiaries or convict prisons. These special insti-

[1] Summarized from E. C. Wines's detailed description of the Irish Prison System contained in *Twenty-fourth Annual Report of the Executive Committee of the Prison Association of New York and Accompanying Documents for* 1868, pp. 333–343, Albany, N. Y., 1869.

[2] One should compare Wines's idealized description of the Irish system with the following descriptions: Sir Walter Clofton, "The Irish System of Prison Discipline," *Transactions of the National Congress on Penitentiary and Reformatory Discipline*, pp. 66–74, Cincinnati, Ohio, October 12–18, 1870, ed. by E. C. Wines, Albany, 1871; Mary Carpenter, *Reformatory Prison Discipline as Developed by the Rt. Hon. Sir Walter Crofton in the Irish Convict Prisons*, Longmans, Green & Company, 1872; Orby Shipley, *The Purgatory of Prisoners: or an Intermediate Stage between the Prison and the Public*, London, 1857.

tutions began principally with the features of the mark system, reduction of time for good behavior, and parole as a means of release. The regular prisons also soon took over these Maconochiean practices. But it is doubtful that the progressive stage feature of the Irish system was widely or thoroughly applied in either Europe or America. In some of the most advanced juvenile and adult institutions, which stress a classified treatment program of intramural placement of individual inmates after an initial period of reception and observation, a good resemblance to the progressive stage system can be found.

CHAPTER XVIII

THE DEVELOPMENT OF PRISONS AND REFORMATORIES.—(*Continued*)

Some idea of the resistance to the adoption of the progressive system of prison management may be obtained from a charting of the sentiment expressed at the various international prison congresses. According to Eberhard Schmidt, the congress at Stockholm in 1878 favored cellular isolation, with special provisions for juveniles, as against the progressive stages system. The Brussels Congress in 1900 still largely justified and supported the cell system. The Congress at Budapest in 1905 favored three groupings of offenders as based on the classification of moral or conduct traits: excellent, good, and dubious. The congresses held at Washington in 1910, at London in 1925, and at Prague in 1931 favored progressive methods as based on the real nature of offenders. Until 1931 one might say that the tenets of the Irish system had been only partly accepted by the majority of penologists in the world, particularly the European penologists, who still looked favorably upon cellular isolation with some provision for congregate activity.[1] Even in Germany, after several sporadic efforts to introduce progressive methods of handling prisoners, cell segregation largely prevailed before the World War and after. The youth prison at Wittlich an der Mosel, established in 1913 and fashioned after the Elmira Reformatory, is reported as being about the only outstanding example of the progressive system in Germany before the war.[2]

While the Pennsylvania, Auburn, and Irish systems were signal experiments in penal reform and penal discipline, actually these systems were merely crystallizations of principles and practices that developed in an era of advancing penology and criminal justice. Besides the conceptions and usages of prison sentences, solitary cells, congregate work, silence rules, indeterminate sentences, mark system, reduction of term for good behavior, progressive classification, and parole, many other ideas and procedures sprang into existence as advances in criminal justice, prison reform, penology, and the study of crime began to take effect. All sorts

[1] SCHMIDT, EBERHARD, "Die Internationalen Gefängnisskongresse: ein Rückblick auf ihre Arbeit," *Zeitschrift fur die gesamte Strafrechtswissenschaft*, Vol. 55, pp. 181–185, 1936.

[2] FREDE, LOTHAR, article on "Gefängnissgeschichte," in the *Handwörterbuch der Kriminologie*, Vol. 1, p. 550, Berlin, 1933.

of special methods and programs for handling offenders came to the surface and were reported on in congresses, both local and international.

Crystallization of the New Penology

The declaration of principles promulgated at the epochmaking first American prison conference, held at Cincinnati in 1870, contained the major tenets of the "new" penology and drew the blueprints for the future development of penal and reformatory institutions in America as well as elsewhere. The most important of these principles, which were written by the nationally and internationally active penal reformer, E. C. Wines, are listed below:

The supreme aim of prison discipline is the reformation of criminals, not the infliction of vindictive suffering.

The progressive classification of prisoners, based on character and worked on some well-adjusted mark system, should be established in all prisons above the common jail.

Rewards, more than punishment, are essential to every good prison system.

The prisoner's destiny should be placed, measurably, in his own hands.

The two master forces opposed to the reform of the prison system of our several states are political appointments and a consequent instability of administration.

Special training, as well as high qualities of head and heart, is required to make a good prison or reformatory officer.

Peremptory sentences ought to be replaced by those of indeterminate length.

Education is a matter of primary importance in prisons, and should be carried to the utmost extent consistent with the other purposes of such institutions.

The prisoner's self-respect should be cultivated to the utmost, and every effort made to give back to him his manhood. There is no greater mistake in the whole compass of penal discipline, than its studied imposition of degradation as a part of punishment.

Industrial training should have both a higher development and a greater breadth than has heretofore been, or is now, commonly given to it in our prisons.

We regard the contract system of prison labor as prejudicial alike to discipline, finance and the reformation of the prisoner, and sometimes injurious to the interest of the free laborer.

The most valuable parts of the Irish prison system—the more strictly penal stage of separate imprisonment, the reformatory stage of progressive classification, and the probationary stage of natural training—are believed to be as applicable to one country as another.

Prisons, as well as prisoners, should be classified or graded so that there shall be prisons for the untried, for the incorrigible, and for other degrees of depraved character, as well as separate establishment for women, and for criminals of the younger class.

More systematic and comprehensive methods should be adopted to save discharged prisoners, by providing them with work and encouraging them to redeem their character and regain their lost position in society.

The present extraordinary inequality of sentences for the same or similar crimes is a source of constant irritation among prisoners, and the discipline of our prisons suffers in consequence.

Prison statistics are essential to an exhibition of the true character and working of our prison systems.

The construction, organization, and management of all prisons should be by the State, and they should form a graduated series of reformatory establishments, being arranged with a view to the industrial employment, intellectual education, and moral training of inmates.

No prison system can be perfect, or even successful to the most desirable degree, without some central authority to sit at the helm, guiding, controlling, unifying and vitalizing the whole. We ardently hope yet to see all the departments of our preventive, reformatory and penal institutions in each state moulded into one harmonious and effective system.[1]

Sixty years after the release of the National Prison Congress penological blueprint, John L. Gillin, reporting on a world-wide observational survey of prison systems, made the following recommendations of practice and procedure to secure better results with prisoners: classification of prisoners, self-government, aftercare of the discharged prisoner, progressive stages of advancement pointing toward release, solution of the prison labor problem, use of prison farms, careful selection of prison officials, training of prison officials, preservation of the economic and social ties of the prisoner, and the use of indefinite sentences.[2] Interestingly enough, most of the crucial points covered by Gillin were contained in the tenets of the Irish system or the principles of the 1870 National Prison Congress.

Apparently the blueprints of the nineteenth-century penology are still good, and prison programs are still trying to follow them. This does not mean that advances have not been made in procedures and policies over a century ago and it does not mean that new ideas and methods of handling offenders have ceased to arise. It merely means that the trends in modern penal institutional development mainly represent an extension and improvement of the nineteenth-century penological principles and practices. In fact the principles formulated at the 1930 American Prison Association contained few, if any, fundamental revisions of those originally declared at the first American prison conference sixty years earlier.[3]

[1] "Declaration of Principles Adopted and Promulgated by the Congress," *National Prison Congress*, pp. 541–547, Cincinnati, 1870. There are 37 principles in the original list. Excerpts have been made from only the more important principles.

[2] GILLIN, JOHN L., *Taming the Criminal*, pp. 299–311, New York, 1931.

[3] "Declaration of Principles of 1870 as revised and reaffirmed at the Sixtieth Annual Congress of the American Prison Association, Louisville, Ky., October 10–16, 1930," *Proceedings of the Sixtieth Annual Congress of the American Prison Association*, Louisville, Ky., pp. 249–256, Oct. 10–16, 1930.

The Belgian and Russian Systems

The prison system in Belgium stands out in bold relief as one of the most highly centralized, specialized, and professionally controlled prison systems so far developed. Under the leadership of Dr. Louis Vervaeck, the Belgian system placed its greatest emphasis on a clinical laboratory service to handle offenders appropriately under specialized treatment facilities according to individual case requirement and to assist in the readjustment of offenders to postinstitutional life.

In 1907 Vervaeck founded a laboratory in criminal anthropology at the Forest Prison, Brussels. After the World War, in 1920, he was instrumental in establishing a *service anthropologique pénitentiaire* with its central bureau at Forest Prison and eight laboratories throughout Belgium. According to Sellin's account (*c.*1925), each laboratory clinic was headed by a physician-anthropologist. These laboratory clinics examined all the recidivists as well as the first offenders who were sentenced to a term of three months or more. The anthropologists, by virtue of their technical position, were able to exercise control over the way in which individual cases of prisoners were handled in the institutions and to designate the particular institution and the specialized treatment facilities in which the individual offender was placed. The *service anthropologique pénitentiaire* also had charge of the vocational guidance of prisoners, although the problem of prison labor at the time was still largely unsolved. Furthermore, it assisted in the postinstitutional adjustment program, functioning through a special Bureau of Social Readaptation, which was established in 1923. Observing the operation of the total functions of the *service anthropologique pénitentiaire*, Sellin concluded that they quite definitely fostered a professionalized and individualized program of treatment.[1]

After the law of social defense went into operation,[2] the prison system of Belgium was geared not merely to expert individualized treatment but also to the technical implementation of protection of the state against the ravages of abnormal and habitual offenders. A more recent description of the development of the Belgian prison system, made by Dr. Vervaeck himself, is reprinted for reference in Appendix C.

Perhaps the most radical extension of the basic principles of the new penology, the blueprint of which was drawn in the nineteenth century, may be found in Soviet Russia's penal and reformatory system, especially that aspect which applies to nonpolitical and noncapital crimes. The Soviet Union conceives imprisonment as a means of reeducating and

[1] Sellin, Thorsten, "Prison Reform in Belgium," *Journal of Criminal Law and Criminology*, Vol. 17, pp. 264–277, 1926–1927.

[2] See p. 410.

reincorporating the deviating individual in terms of the communistic social order. It assumes that if the individual had been thoroughly adjusted to the communistic order he would not have committed crime in the first place. Prisoners are subjected to highly geared propaganda, in order to assist the conversion and to instill proper soviet attitudes. Among other things, the penal code of the union forbids the use of life sentences, of brutality, solitary confinement, and degrading devices. Conditions of inmate work are controlled by the same labor code as applies to free workers. Furloughs from prison are used.[1]

Supplementary Developments in Prison Handling

Numerous experimental policies and programs have developed here and there in local penal institutions in an effort to carry out and advance the operational effectiveness of the basic nineteenth-century principles and procedures. While comparisons of specific prisons at any one time would show great variations in administration, disciplinary rules, daily routine, and architecture, the modern prisons that were progressing rather than lagging were attempting to achieve operational success with some or all of the fundamental penological principles and procedures that evolved in the nineteenth century.

Within the framework of these basically modern penological principles and procedures, several supplementary developments in prison management and control have taken place. The more important of these can conveniently be grouped under the following heads: (1) expansion and enrichment of intramural program, (2) specialization in penal institutions or institutional facilities, (3) classified handling of prisoners, (4) reduction of stigmatizing regulations and oppressive discipline, (5) encouragement of individual responsibility, and (6) increased contacts with the outside world.

1. Since the inception of the first penitentiaries and convict prisons, expansion and enlargement of the intramural program has been proceeding at a rapid rate. The initial Pennsylvania system was limited to solitary reflection, which was found harrowing, and later the system added labor in the cells of inmates. The Auburn system permitted congregate labor in shops and Bible reading in cells—all in silence. Periodic visitation by men of God was a carry-over from the antecedent jails and workhouses. The early penitentiaries did pay some attention to the medical care of prisoners and to sanitary precautions. But beyond a program of work and religious ministration, there was very little in the way of a diversified program of activity. Educational training was soon added

[1] See the account of the Soviet Union's penal system by John L. Gillin, reproduced in Appendix D; also, see Lenka von Koerber, *Soviet Russia Fights Crime*, New York, 1935.

and became an important part of the Irish system. Much later, of course, vocational training in trades was added. Books and periodicals were soon circulated and prison libraries became a stock adjunct of prison programs. Work was introduced at first for its humanizing effect—*i.e.*, to prevent deterioration of body and soul. Later on, the question of the economic value of convict labor came to the fore and in America, particularly, the vicious system of contract prison labor became a burning political issue. Today the more advanced prisons look upon convict labor as maintenance use—*i.e.*, contributing to the support of the prison or other state institutions. At the same time, work is looked upon as therapy, having possibilities of an organizing focus of attention, interest, and training. Recreational features were added to the intramural program—exercise and airing at first; entertainments, concerts, lectures, and games, later. In order to provide for the educational and recreational features in prisons more leisure-time allotments had to be made over and above bedtime, mealtime, and work. The expansion of the prison program in educational, vocational, and leisure-time directions has meant more congregate living and less cellular isolation in prisons.

It might be of interest to compare the intramural program of a none too advanced contemporary prison with the statement of early prison programs of the Pennsylvania system and the Auburn and Connecticut prisons, in order to see the remarkable expansion both horizontal and vertical. For this purpose, high lights in a recent study of leisure-time activities of prisoners in the white male penitentiary of Tennessee are summarized in Appendix E.

Compared with early American penitentiaries, this intramural program of an unadvanced modern prison appears to have made important strides. But compared with a program of highly developed educational and recreational facilities in an advanced penitentiary, such as exists for example at Sing Sing (see Appendix F), the Tennessee program appears to be woefully lagging.

An interest in the details of advances made in the development of an intramural educational and recreational program should not becloud the dominant issue involved, *viz.*, that intramural program expansion has been looked upon as a therapeutic measure—as a means of counteracting the evils, vices, unrest, and mental deterioration which almost inevitably become magnified in a drab routine of merely work, rest, and discipline.

2. Very early in prison development, special provisions were insisted upon for women and young offenders. As a matter of fact, specialization in institutional facilities and the development of specialized institutions for different classes of offenders have gone far.[1] Today we have juvenile

[1] See Appendixes C and F for concrete descriptions of specialized institutions and services in the Belgian prison system and in Sing Sing prison of New York State.

reformatories, special wings or separate institutions for females, special institutions for young adult offenders, special prisons for the most serious and difficult offenders (*i.e.*, prisons of maximum security), special provisions for insane offenders, and in the southern United States, separate institutions for whites and Negroes. The specialization has, therefore, attempted to provide separate facilities by sex, race, age, mental condition, and criminal maturation.

3. In recent years there have been some attempts to classify offenders on admission and to place them in the best suited facilities and program within the institution.[1] Intramural case placement requires a study of the individual prisoner's background record at time of entrance and progressive follow-up of the offender during his institutional stay. It requires a corps of medical, psychological and educational, recreational, and vocational workers, and a highly diversified intramural activity program. However, very few prisons are well enough equipped to do much with the plan of classified individual placement. In a few instances, prison systems have developed special reception facilities, into which prisoners are first admitted and from which they are later placed in their proper institutional niches or programs. The development of classified placement of individual offenders, the germs of which were contained in the Irish system, is in its infancy. A greater development of the intramural placement procedures would go far in surmounting the limitations of indiscriminate mass handling of offenders and in approximating an individualized treatment program.

4. There has been a distinct tendency in prison management to reduce hardships, tortures, and unnecessary disciplinary rules. Violations of regulations are more likely to be met by denial of privileges or of participation in recreational functions than by whipping or solitary confinement in a refractory cell on a diet of bread and water.

Prison discipline in the attempt to maintain order and to curb transgressions, unrest, escapes, and hidden vices of prison life inevitably became tyrannical and overbearing, creating an atmosphere of undercover tension, resentment, fear, dread, a discernible prison face, postural attitude, and prison stupor. Many of the intramural regulations were more than mere disciplinary measures. They had a stigmatizing effect and became associated in the stereotyped conceptions of the free world with the disrespectability of convicts. Ball and chains, bloodhounds, convict garb (striped uniforms), identification tags, convict hair clip, prison diet, lock step, silence, bars, cells, and armed guards are some of the items associated with the stigma of imprisonment. Several of these stigmatizing practices and symbols are declining through disuse—*e.g.*, ball and

[1] See Appendix G for sample classification reports of the Diagnostic Depot, Illinois State Penitentiary.

chain, bloodhounds, stripes, and silence. Advanced prison administrations have attempted to reduce the stigmatizing items of imprisonment to the very minimum as a means of creating receptive attitudes and preventing the growth of unnecessary antipathies among prisoners. The greatest force in reducing stigma of prison life is the trend in public sentiment, especially in the United States. Imprisonment is no longer generally looked upon as completely ruinous. The convict in certain individual instances does not lose caste. Convict life has been portrayed in plays, moving pictures, and radio skits. Convicts have appeared in comic strips of the newspapers. Prison life has been photographically portrayed in daily papers and pictorial magazines. Women's fashions have copied convict stripes. More persons than ever before have peered into a prison. All these influences have had the effect of elevating convict status and incidentally reducing the horrors and stigmas of prison life.

5. Since Maconochie's mark system there has been an increasing use of devices to encourage individual initiative and responsibility of inmates during imprisonment and within prison walls. This has been attempted by the granting of privileges in work, education, and recreation, and permitting greater latitude of unguarded movement. Such measures have usually accompanied the growth of intramural program facilities and the use of denials of participation in activities as a means of penalty for petty transgression of prison rules. For the most part, the increased allowance of privileges has been geared to a scheme of progressive advancement within prison walls. The prisoner has had to earn his advancement by showing signs of good behavior and personal responsibility. The honor system has been attached to the system of privilege allowance. Schemes of intramural self-government and inmate committees have been introduced, in some instances, in order to encourage a sense of sharing in responsibilities and to reduce the odium of oppressive rule by external authority. The operational effectiveness of the honor system and self-government is still a matter of conjecture. Instances can be cited of heroic and even miraculous responses of inmates to the charge given them, while examples of abuse and undermining results can also be cited. However, most prison authorities and penologists would agree that the use of progressive privileges within sane limits is quite worth while and that the development of self-control and individual responsibility within the prison program is highly desirable.

6. As a result of advancements in prison policy, increased social contacts have been accorded to prisoners. At first, outside contacts were very limited, if not entirely severed. Periodic letters from home or relatives, censored by prison authorities, were the first encouragement to the preservation of social ties with the outside world. Periodic visits by relatives and friends were next allowed. The restriction and severance of

outside contacts were conceived by early penitentiary administrators as a necessary device to preserve discipline and to maintain the spirit of imprisonment. The more or less loose contacts with outsiders customarily prevailing in early jails, because of their demoralizing nature, had brought a reaction against allowing prisoners to have visitors.

While the partial restoration of contacts through mail and visits from friends and relatives has increasingly been made, these contacts have been supervised so as to curb smuggling of contraband and plotting of future crimes. The privilege of limited contact with the outside world was restored out of humanitarian motives, since complete severance was observed to work undue mental suffering on prisoners and since preservation of certain social ties was conceived to be essential for the future welfare of inmates.

The development of contacts with the outside world, in a few instances of very progressive prison administrations, has taken the form of leaves of absence from prison walls for specified periods and occasions. In connection with special work, educational, and recreation programs, prisoners have been trusted to leave the gates. Russia is reported to grant yearly vacations from their prison communities and even to allow a continuation of family life in imprisonment. The idea of vacation returns to ordinary community life has also been tried in experimental mental-disease hospitals, where the use of week-end or much longer visits to home are the final part of a series of progressive readjustments to the outside world. Advanced American prisons in recent years have frequently allowed prison bands, dramatic clubs, and ball teams to participate in outside activities. Temporary leave has been allowed prisoners, very infrequently however, to attend a funeral or deathbed of a relative. And in some instances individual prisoners have been allowed to work in the community at a special trade or to attend special educational courses.

The encouragement of progressive participation and free contacts in the outside world is in its infancy. The theory is good, *viz.*, to build the prisoner up to efficient adjustments in the community before he is finally discharged. Just how far this program will be applied and how generally it can be applied is a matter of prophecy. It seems to be a logical next step after the development of responsibility and self-control within the prison itself.

The six supplementary developments in prison policy and program by no means exhaust the entire array of trends of modern prison growth. They are cited as being the more important trends, which are extensions of the main trunk lines of prison theory and practice as developed by nineteenth-century penology. Besides the six supplementary developments in prison organization, mention should be made perhaps of at least two more, which some penologists would claim to be of utmost importance: the trend toward centralized state control of penal institutions and

that toward better trained prison officials and personnel. The former is calculated to prevent local irregularities and to foster better management. The latter is conceived, likewise, in terms of promoting the operational effectiveness of the prison program.

This longitudinal review of the development of the prison as an institution for punishment, protection, and reformation has attempted to establish the source for the development of penological principles and practices, and has not intended to memorialize the achievements in any country, such as the United States, Ireland, Belgium, and Russia, as against other countries. It has been impossible in the nature of the task to make a cross-sectional survey of the prison systems as they exist today in the principal countries of the world and call attention to the many signal advances in prison administration, discipline, and facilities, such as were accomplished in the complete reorganization of the penal institutions in Italy in 1931 and the important changes introduced to modernize the penal system in Poland in 1931 and 1934. Such a cross-sectional review is a matter for specialized study in itself.[1]

The Growth of Juvenile Reformatories

The growth of juvenile reformatories paralleled, in time at least, the development of prisons and penitentiaries; but the original conception of

[1] Some important references to the development and present status of prison systems in selected countries may be found as follows: Austria—W. Gleispach, "Twenty-five years of Criminology in Austria," *Journal of Criminal Law and Criminology*, Vol. 24, pp. 176–197, 1933–1934. Canada—C. W. Topping, *Canadian Penal Institutions*, Chicago, 1930. Czechoslovakia—*The Prison System in the Czechoslovak Republic*, published by the ministry of Justice, Prague, 1930. Germany—Franz Exner, "Development of the Administration of Criminal Justice in Germany," *Journal of Criminal Law and Criminology*, Vol. 24, pp. 248–259, 1933–1934. Lothar Frede, "Gefängnissgeschichte," in *Handwörterbuch der Kriminologie*, Vol. 1, pp. 537–552, Berlin, 1933. Holland—H. C. Valkema-Blouw, "Kriminal Politik in Holland," *Zeitschrift für die gesamte Strafrechtswissenschaft*, Vol. 52, pp. 91–95, 1932. W. A. Bonger, "Development of the Penal Law in the Netherlands," *Journal of Criminal Law and Criminology*, Vol. 24, pp. 260–270, 1933–1934. Italy—W. Mittermaier, "Das Italienischer Gefängnissreglement von 1931," *Monatsschrift für Kriminalpsychologie und Strafrechtsreform*, Vol. 23, pp. 113–114, 1932. Tommaso d'Arienzo, "La réforme pénitentiaire en Italie justifiée par les données de l'expérience," *Revue de droit pénal*, Vol. 16, pp. 1012–1021, 1146–1153, 1245–1270, 1936. Japan—E. Makino, "La réforme de l'exécution de la peine au Japon," *Zeitschrift für die gesamte Strafrechtswissenschaft*, Vol. 55, pp. 265–275, 1936. Y. Hara, "Grundsätze der Specialprävention in den japanischen Gefängnissen," *Archiv für Kriminologie*, Vol. 102, pp. 39–42, 1938. Poland—Ludwik Dworzak, "Der Polnischer Strafvollzug," *Zeitschrift für die gesamte Strafrechtswissenschaft*, Vol. 55, pp. 865–877, 1936. Sweden—Olof Kinberg, "Criminal Policy in Sweden during the Last Fifty Years," *Journal of Criminal Law and Criminology*, Vol. 24, pp. 313–332, 1933–1934. Also, see "Prisons of Tomorrow," *The Annals of the American Academy of Political and Social Science*, Vol. 157, September, 1931, for descriptions of prison systems in various countries of the world.

the former differed greatly from that of the latter. The forerunners of juvenile reformatories were inspired by a protective interest in children, and were established as private philanthropic enterprises by civic-minded persons who wished to spare unfortunate children the fate of adult criminals. No sharp distinction was made by the early juvenile institutions between caring for a delinquent, as over against orphan, destitute, or neglected children. Today the distinction is still not completely made, although dependent and delinquent children usually have separate institutions now in countries that have established special institutions for unfortunate children.

The House of Refuge for poor boys of Florence, established under private auspices by Filippo Franci in 1677, is cited as being the first special institutional provision for underprivileged children. It was an outgrowth of charitable work. Supervision of various aspects of boy life in and out the institution was placed in the hands of protectors. The institution had a special correction department for unruly boys. Two protectors handled the outdoor part of the program of this department, secretly and yet fraternally attempting to correct the behavior of boys at large in the city. Two other protectors were detailed to the secret cellular correction in a separate part of the institution. Parents had to pay for this institutional treatment of their unruly sons placed in the correction department of the institution.

In 1786 the institution was reorganized after a removal to new quarters, and the separate-cell method of handling unruly boys was abandoned. The House of Correction for Boys, established in 1703 by Pope Clement XI, as a part of the Hospice of Saint Michael in Rome, is supposed to have borrowed the idea of juvenile reformation from the Florentine House of Refuge. Its program was based on cell segregation of boys at night and congregate work in silence during the day. The idea of common work during the day was not an original tenet of the Franci experiment in Florence but is supposed to have been copied from the Amsterdam Work House. However, the general idea of reformation of erring boys by cellular isolation in an institution was of Florentine origin.[1]

In 1813 John Falk founded a reformatory at Weimar, Germany, for children of criminals and criminal children. An institution to reform criminal youths of both sexes was sponsored by Mrs. Elizabeth Fry and her brother, John Gurney, both of whom founded the London Philanthropic Society in 1817. An asylum for orphans and children of vagabonds and convicts was established in Rhenish Prussia in 1819 by Count

[1] See SELLIN, THORSTEN, "Filippo Franci—Precursor of Modern Penology," *Journal of Criminal Law and Criminology*, Vol. 17, pp. 104–112, 1926–1927; "The House of Correction for Boys in the Hospice of Saint Michael in Rome," *Journal of Criminal Law and Criminology*, Vol. 20, pp. 533–553, 1929–1930.

Adelbert von Reche Volmerstein, and a house of refuge for children was founded in Berlin in the same year by Mr. Wadzek.[1]

A society for the prevention of pauperism was founded by Dr. Griscom in New York City in 1817, and in 1819 he recommended the separation of young convicts in the Belleview prison. James W. Gerard in 1824 proposed the erection of a House of Refuge for Delinquents—an institution that was opened in New York City in 1825. This became the first juvenile reformatory in the United States. As we shall see, New York's lead was followed by several other communities and states in the United States.[2]

The reform school for children known as the Rauhe Haus, often cited as a model of its kind, was established near Hamburg, Germany in 1833.[3] A school farm for juvenile offenders, known as *la colonie agricole*, was erected at Mettray, France in 1839 and opened in 1840, under the guiding hand of Demetz. This was probably the most signal experiment in children's institutions, setting the general pattern for modern juvenile reformatory handling. By 1851, Carpenter reported that there were forty-one such farm colonies for juveniles in France, only four of which were operated by the state.[4]

The *Société Paternelle* was the instrumental philanthropic organization in back of the movement for juvenile institutions in France during this period. The Mettray colony really experimented with several of the modern methods of institutional handling of children, such as the family plan and the cottage system.[5]

Ragged and Industrial Schools were established in England prior to the middle of the nineteenth century, for the expressed purpose of reclaiming neglected children who were left for the streets to claim. Dr. Chalmers in 1849 founded a "Missionary Station" in Westport, one of the most disorganized parts of Edinburgh, in order to do reclamation work among children.[6] Beggs claimed that several parents were bringing their boys to the London City Mission to have them reclaimed from thievery and that they were placing them in houses of refuge, paying for their keep, in order to prevent growth in crime.[7] He also called attention

[1] *Twenty-fourth Annual Report of the Executive Committee of the Prison Association of New York*, p. 194, Albany, N. Y., 1869.

[2] *Ibid.*, p. 195.

[3] For an operational description of this juvenile institution, see MARY CARPENTER, *Juvenile Delinquents: Their Condition and Treatment*, pp. 259–282, London, 1853.

[4] *Ibid.*, p. 234.

[5] *Twenty-fourth Annual Report of the Executive Committee of the Prison Association of New York, op. cit.*, pp. 256*ff.*

[6] BEGGS, THOMAS, *An Inquiry into the Extent and Causes of Juvenile Depravity*, pp. 8–9, London, 1849.

[7] *Ibid.*, p. 96.

to the work of the Philanthropic Society for the Reformation of Juvenile Offenders in London during the year 1847–1848. Out of 91 boys apprenticed or placed in situations by this agency, only 10 had relapsed. The society (as of 1849) was establishing a farm school at Red Hill, Reigate with a capacity of 500 boys.[1] Wines reported that in England by 1867, 63 industrial schools had developed which undertook to handle neglected and delinquent children under twelve years of age and to care for them for five years, or until they were sixteen years of age.[2]

In the United States, following the lead of New York City's House of Refuge, which opened in 1825, twelve states had erected juvenile reformatories while nine possessed houses of refuge by 1866.[3] The Massachusetts Reform School, which was established at Westborough in 1848, devised a system whereby children were first placed in a congregate department and were later advanced by merit to cottages, each presided over by a man and his wife, as a means of fostering the benefits of disciplined home atmosphere.[4] The State Reform School of Ohio, established in 1858, was patterned after the agricultural colony of Mettray: no walls, no bolts and high fences, kind treatment, farm life, shop labor, dormitories presided over by "elder brothers" (much like the cottage plan of today).[5] Wines gathered the operational facts from the existing state reform schools and houses of refuge as of 1867, some of the more interesting of which are listed as follows. The average number of hours of labor was 6; of study, 4⅓; at meals and recreation, 4⅓; of sleep, 9⅓. The average number of officers and employees per institution was 19½. The per capita maintenance cost was $153. The average age of children at time of reception was thirteen years, two months, eight days. The term of commitment was for a specific number of years or for the period of minority, the latter being more prevalent.[6]

It is clear from these several developments that the forerunners of modern juvenile reformatories had their inception mainly in philanthropic enterprises that undertook to prevent unfortunate and delinquent children from aging in crime. When government took over the responsibility and erected state-run juvenile reformatories, they became semi-penal institutions, although never wholly penal, since it is often difficult to tell whether a child is primarily a lawbreaker or a neglected child or both, and since the institutions from the beginning were not conceived as punitive agencies but rather as guardianship schools.

[1] *Ibid.*, p. 147.

[2] *Twenty-fourth Annual Report of the Executive Committee of the Prison Association of New York, op. cit.* p. 235.

[3] *Ibid.*, p. 205.

[4] *Ibid.*, pp. 181–182.

[5] *Ibid.*, pp. 198–200.

[6] *Ibid.*, pp. 205–210.

Nevertheless, the penal atmosphere invaded the state-supported juvenile reformatories as time went on and threatened to crush out the protective, guardianship spirit that gave them their birth. The institutional routine practically paralleled the routine of adult prisons—march formations, state clothes, locks, bars on windows, silence rules, mess, required labor, corporal punishment, demerits for transgressions of rules, and so forth. About the only visible differences between state-operated juvenile reformatories and adult penitentiaries in the United States before the World War were to be found in the lack of cells, except for refractory cases, and greater emphasis on education and recreation. The juvenile reformatories had so strayed from their original guardianship purpose and spirit that judges, police, public, and offenders looked upon them primarily as penal institutions, while social workers were seeking to find ways and means of handling delinquent children without institutionalizing them and of softening the penal discipline and punitive atmosphere of the juvenile correctional schools.

In 1908 England enacted a law called the Borstal Act, which provided for the special handling of juvenile criminals by juvenile reformatory institutions or Borstals. They were conceived in terms of educating the youthful offender for self-control, and they provided a graded system of advancement leading finally to release. The aftercare of discharged inmates was taken over by the Borstal Association, which was the supervising agency for licensed boys (those discharged on parole). According to Brockway's account (*c.*1926), the Borstal institution operated on a "house"-system basis, with chosen prefects in charge (akin to the cottage plan and monitor system that was developed in the United States and originally borrowed from *la colonie agricole* of Mettray, France). The routine day was fifteen hours, beginning with physical exercise and allotting eight hours for work and two for study. Liberty of inmates was restricted at first, and later increased, even to the point of permitting outside attendance in technical school. The minimum term of sentence was two years; the maximum, three years. Release on parole or on license could be made after six months for boys and three months for girls.[1] Brockway contended that the main defect of the Borstal reformatories is that they are more penal than educational.[2]

In June, 1935, Sweden passed a law establishing youth prisons for offenders under 21, patterned after the English Borstal system. These institutions were designed for youths ‡8 to 21, who were not fined or given a sentence for more than four years. At the same time the Swedish

[1] BROCKWAY, A. FENNER, *A New Way with Crime*, p. 95, London, 1928.

[2] Also, see account on Borstal institutions in L. LE MESURIER, *Boys in Trouble; A Study of Adolescent Crime and Its Treatment*, pp. 200–247, London, 1931; RUDOLPH SIEVERTS, "Das Englische Borstalsystem," *Zeitschrift für die gesamte Strafrechtswissenschaft*, Vol. 56, pp. 551–576, 1937.

law placed the age of responsibility for criminal acts at 15 and softened the punishment of children between 15 and 18.[1] According to a report in the *Temps* of January 24, 1937, a new model correctional school for youth has been established at La Motte-Beuvron, France, and further institutions like it are planned. Instead of guards, the new institution is reported as using pedagogically trained monitors. The plans call for a progressive system, more or less patterned after the English Borstal and the special institution at Merxplas, Belgium, including psychiatric examination and classification.[2]

The program and setup of the Whittier State School of California may be cited as an example of advanced juvenile reformatory development. Among other points of significance, one notices that the program of the school is based on the concept of reformation and the use of indeterminate sentences, of progressive advancement according to earned merit, and of parole or follow-up placement after release, which are the basic features of modern nineteenth-century penology. On the other hand, one notices the elimination of penal discipline and restraint, the rich diversified facilities of school, vocational training and recreation, the clinical handling of cases in what amounts to a definitely individualized treatment program, of classified placement of individual cases, the encouragement of self-discipline, the stimulation of outside contact. On its face value, the Whittier setup is attempting to substitute individualized treatment for punitive discipline as nearly as is possible in a mass situation.

Summarized Description of the Whittier School (1931).—Near Los Angeles, California, school campus landscaped 48 acres used for buildings, 130 acres in orange and walnut trees, the remainder of a total of 226 in truck gardening. Eleven cottages for the boys; four having individual rooms, the others, dormitories. Homelike comforts in all cottages except the "lost privilege" cottage. Dining room and kitchen in one building. A chapel building used also for entertainments, movies and gatherings. A hospital of 18 individual rooms. A school building furnished with chairs and tables instead of old style desks and contains a library. Several trade shops. The print shop has modern equipment. Farm equipment up to date. Gymnasium old and not in good repair and a new one contemplated. But most sports held outside. Fine athletic field. Outdoor swimming pool.

Average daily population was 330 boys. Per capita operation cost (not including items produced on farm) was $905.07 per year.

The personnel consisted of a superintendent, assistant superintendent, secretary to superintendent, principal of school, 8 school teachers, a vocational director,

[1] MITTERMAIER, W., "Die Schwedische Jugendgefängnisstrafe," *Monatsschrift für Kriminalpsychologie und Strafrechtsreform*, Vol. 27, pp. 287–290, 1936.

[2] GENTZ, "Zur Reform des Jugendstrafvollzuges in Frankreich," *Monatsschrift für Kriminalpsychologie und Strafrechtsreform*, Vol. 28, pp. 192–193, 1937.

9 vocational instructors, a head group supervisor, 38 group supervisors, 8 house mothers, one part-time physician, a librarian, a chaplain, one part-time dentist, 3 nurses, 9 foremen, 3 placement officers, 8 clerical workers, 13 miscellaneous (cooks, seamtress, handymen, fireman, etc.). While most of positions were under state civil service, most of employes held temporary civil service status.

The school is able to reject boys too old in age or too low in intelligence. Legal age of commitment 8 to 16. School policy of not accepting any boy under 75 I. Q. Boys suffering from contagious and infectious diseases excluded also. School has a capacity for 350 boys.

Upon arrival a boy is interviewed and sent to the hospital, where he stays in quarantine for a few days. Then sent to receiving cottage, where he remains four to six weeks. During this period he is subjected to study from many angles so as to afford the basis for proper placement within the institution. Receiving cottage not as attractive as other cottages. Boys in reception did not mingle with other boys and were restricted in privileges and liberties.

The boy then went to the service cottage, which was an intermediate step to the regular cottages. He remained here about 6 weeks. When he was ready to be transferred to a regular cottage, his case was reviewed by the staff clinic. Specific cottage assignment was based mainly on age and physical development. Assignment to grade school was based on results of psychological tests and on the educational needs of the case. Assignment to vocational training also based on tests, the individual boy's interests, and future opportunities after discharge. The clinic discussed a proper program for the boy's recreational life. A counselor for the boy was appointed by the clinic. The boy was brought in for a friendly meeting with his new counselor and his cottage supervisor.

The institution operated on a 14½ hour routine—rising bell at 6:30 A. M., lights out at 9 P. M. Recreational activities mainly after supper. No outward semblance of a prison. The general atmosphere free of restraint. Very few mass formations and lines. Boys permitted to write twice a month to relatives. Permission required to write any one else. Outgoing and incoming mail censored. Permitted to receive packages but contents inspected. Relatives allowed to visit as often as they wished but only during visiting hours on Saturday and Sunday. Outside contacts of a wholesome nature were encouraged. A state bureau provides psychiatric service for special cases. A resident psychologist gives the psychometric tests. The educational program was correlated with the vocational training. Ungraded classes, and special instruction were provided to surmount shortages in educational background and abilities. All work beyond the sixth grade was on a contract lesson plan, which represented a battery of problems and assignments to complete in consultation with teachers. Vocational training included printing, aviation, machine work, automobile mechanics, agricultural courses. Daily gymnasium classes for all boys, mainly calisthenics. Competitive sports prominent in the athletic program. Group singing. Instruction given boys of musical ability in band playing. Band instruments supplied by the school. Band played at assemblies and concerts. Radio in each cottage. A small broadcasting station for intramural programs to reach all boys in cottages without general assembly. Motion pictures shown once a week. Well-equipped library of 5,000 volumes with a librarian, a branch of the Los Angeles County

Library. Boy scout troops in 5 of the cottages. Hikes and other activities of the troops off the school grounds. Summer camp at Catalina Island, each cottage getting 7 to 10 days vacation at the camp. An honor club to encourage self-discipline was in operation. Full-time chaplain employed, who conducts non-sectarian services and does personal contact work with the boys. A credit or a merit system also in use, posting publicly the ratings of each boy. Principal method of discipline included denial of privileges and removal to the lost privilege cottage in extreme cases. An excellent case record system in use. A placement department handled release of boys. Eligibility for release depended on individual progress. Follow-up visits made of boys placed in their own homes or foster homes. Average period of stay in the school was 18 to 20 months. Local community agencies in some instances assisted in follow-up supervision of the boys on placement. The period of placement supervision was usually two years.[1]

Many institutional experiments with juvenile offenders have received special notice in recent years, among the more notable of which are Children's Village, Sleighton Farms, El Ritiro (now defunct), George Junior Republics.[2] While these special program developments vary widely in content and point of attack, they possess the common fundamental objective of attempting to surmount the limitations of institutional mass discipline and punitive measures.

The juvenile institutions have, of course, made use of the indeterminate sentence, mark system, progressive advancement toward discharge, and parole, as have the adult prisons. And they have manifested the same trends in program development and inmate handling as have the penitentiaries, only to a much greater degree—enrichment of the intramural daily program, specialization in facilities, classified placement of inmates, reduction of stigmatizing regulations and oppressive discipline, encouragement of individual responsibility, increased contacts with the outside world, and better trained personnel.

Like the adult penitentiary, the juvenile reformatory is confronted with the problem of reconditioning human beings and of achieving successful results in the process. And like the adult prison, it has attempted to surmount the limitations of mass congregate handling. That the juvenile institution is more favorably situated than adult penal institutions for commanding the resources and facilities to advance further into an individualized treatment program is undoubtedly true. That it occupies a more strategic position than the adult prison in treatment and rehabilitation is likewise apparent.

[1] BOWLER, ALIDA C., and RUTH S. BLOODGOOD, "Institutional Treatment of Delinquent Boys," U. S. Department of Labor, Children's Bureau, no. 228, pp. 14–17, Washington, D. C., 1935.

[2] RECKLESS, WALTER C., and MAPHEUS SMITH, *Juvenile Delinquency*, pp. 280–281, New York, 1933; WILLIAM I. THOMAS and DOROTHY S. THOMAS, *The Child in America*, pp. 109–124, New York, 1928.

CHAPTER XIX

RELAPSE AND THE RESULTS OF TREATMENT

The challenge to effective reconstructive and rehabilitative work of courts, probation, correctional institutions, parole, and other treatment measures clearly comes from the amount of relapse into crime as shown by persons who have been handled by these agencies. If the programs that offer opportunities for readjustment are really functioning to reconstruct the lives of delinquents and criminals, their effectiveness should be indicated by low rates or proportions of relapse among the cases handled. And over a period of years the recidivist rate should decline, if and when the treatment measures become progressively more effective.

The Problem of Recidivism

In many respects the best index to test the effectiveness of treatment programs would be a progressively lowering proportion of recidivists among the offenders admitted to adult penal institutions. For one reason, a reduced or lowered rate of relapse as shown from the commitment records of adult offenders, particularly young adult offenders, is what society is ultimately aiming to accomplish. By the time young adulthood is reached, society would like to have its members well adjusted and its erring youth settled down into a law-abiding existence. For another reason, since persons admitted to adult prisons are for the most part the serious offenders, a reduction in relapse among these cases would be very comforting to the well-being of society. Lastly, verified information from which to ascertain the extent of recidivism is at present more likely to be found in the records of penal institutions than at any other point of the legal machinery.

One might well ask what present-day statistics on recidivism in adult prisons indicate. The best guess is that they reflect in large part the policies of criminal justice and disposition of cases in courts, the development and use of specialized facilities for serious offenders, and above all the use and efficiency of criminal identification work. And to some extent—no one knows how much—they reflect the limited ability and ineffectiveness of the rehabilitative and protective machinery of society. Available statistics on previous convictions of offenders show that the recidivism rate is high. Hacker has gathered together the percentage of reported recidivism for several countries.

PERCENTAGE OF REPEATED OFFENDERS AMONG THE CONVICTED BY SELECTED COUNTRIES[a]

Country	One previous conviction	More than one previous conviction	Total
Irish Free State			
1922	7.2	51.8	59.0
1933	11.4	51.8	63.2
United States			
1923	18.2	28.3	46.5
1930	35.9	18.6	54.5
Czechoslovakia			
1923	11.6	38.4	50.0
1932	11.4	39.9	51.3
Finland			
1924	17.6	20.6	38.2
1931	19.4	28.0	47.4
Germany			
1924	[b]	[b]	24.7
1931	[b]	[b]	41.1
Denmark			
1922	15.9	22.7	38.6
1931	16.1	22.5	38.6
Italy			
1919	14.0	18.8	32.8
1927	15.0	21.8	36.8
Latvia			
1927	13.1	12.4	25.5
1933	15.6	20.8	36.4
Sweden			
1922	16.4	21.8	38.2
1932	14.5	16.1	30.6
Scotland			
1922	8.9	19.6	28.5
1933	9.0	19.7	28.7
Greece			
1926	7.4	9.7	17.1
1931	12.4	13.6	26.0
Canada			
1924	8.2	11.2	19.4
1932	9.2	14.9	24.1
Hungary			
1922	5.8	3.2	9.0
1932	11.3	12.7	24.0
Union of South Africa			
1922	8.4	11.6	20.0
1933	5.8	11.8	17.6
Bulgaria			
1922	4.7	2.7	7.4
1932	6.7	4.1	10.8

[a] Data taken and rearranged from E. HACKER, "Beiträge zum Problem der rückfälligen und unverbesserlichen Verbrecher," *Monatsschrift für Kriminalpsychologie und Strafrechtsreform*, Vol. 26, pp. 247–253, 1935.

[b] Not reported by Hacker.

Obviously, the percentage of recidivism varies considerably from country to country, depending, as we have indicated, on variations in court policies, the development of penal institutions, and the means for detecting previous criminal records in offenders. While varying cultural and local conditions may account for some of the differences in reported recidivism rates, it seems plausible to say that the countries that have the highest rates are probably those that have the best measures for detecting previous convictions or commitments of offenders and those whose courts send only the more serious cases to institutions. If countries had adequate coverage on previous convictions of offenders by agencies of criminal identification, the recidivist rates would be still higher. In most of the countries cited by Hacker, the proportion of previous convictions increased in the decade from the early twenties to the early thirties.

One suspects that the percentage of reported recidivism in advanced countries has increased in the period of modern penology and penal institutions, *i.e.*, from the early nineteenth century to date. Mayhew and Binny, for example, gave the following percentages of recommitals to English prisons for the years 1842 to 1849: 29.9, 30.5, 32.4, 33.4, 32.8, 31.3, 29.9, 30.7.[1] But the lower percentages of relapse a century ago in England, as compared to the present day, are largely explained by the absence of identification records and the policy of sentencing minor cases to prisons. Somewhat later, an English convict estimated that, in the shoemaker's shop at Dartmoor prison, more than half of the 200 prisoners at work had been reconvicted and that only 60 to 70 were really first offenders.[2]

Owing to the declining severity of penal codes, modern penal institutions are probably receiving a larger proportion of serious, habitual, and professional offenders than the prisons of 100 years ago. This progressive handling of the more serious offenders would keep the reported rate of relapse high, and prevent it from dropping.

Without any way of correcting statistics on recidivism for greater coverage on identification and for changes in penal codes and in policies of administration of criminal justice, there is no way to tell whether recidivism has actually increased or decreased in the last ten decades of improvement in penal institutions. And there is no definite way to tell at present how the operation of the sociolegal machinery for handling offenders is reflected in statistics on recidivism. If, over a period of years, policies of disposition and use of identification records were stabilized, any decrease in the proportion of repeated offenders would probably indicate

[1] MAYHEW, HENRY, and JOHN BINNY, *The Criminal Prisons of London and Scenes of Prison Life*, p. 107, London, 1862.

[2] By a Ticket-of-Leave Man, *Convict Life; Revelations concerning Convicts and Convict Prisons*, rev. ed., pp. 58–59, London, 1880.

an increased effectiveness of rehabilitation work with offenders. Insight into the operational effectiveness of treatment programs will, therefore, have to be gained from other sources, especially special studies of successful or unsuccessful outcome of offenders after being handled by various treatment facilities.

Revealed Limitations of Penal Institutions

Viewing the trends in penological development, one might expect that penal institutions were doing a better job of reformation than formerly. But the most advanced developments have not been widely introduced or effectively carried out. Most of the widespread changes have been made in the physical organization of prison facilities and in the program of work, discipline, and leisure time. The trends of progressive prison administration, such as the development of specialized institutions and of a classification system, the reduction of horrors and brutal discipline, the use of competent personnel, provision for social contacts of prisoners, the individualized handling of convicts, etc., have in large part been initiated in response to the perceived shortcomings of the institutions as places of protective detention and of reformation. The revealed, and sometimes written, experiences of prisoners themselves have given eloquent testimony to the fact that penal institutions, in spite of certain none too widely introduced progressive policies, are not functioning very effectively as agencies of reformation.

Over one hundred years ago, the principal shortcomings of the prison were listed, by one who purported to know them from the inside, as follows: it fails to reform, officers are immoral, convicts corrupt each other, sentences are ineffectual to prevent crime, prison labor depraves inmates, convicts are treated inhumanely, use of pardons is abused, corruption exists in the handling of prison accounts.[1] Most of these shortcomings have been mentioned over and over again by prisoners and prison reformers for well over a century. The fact that prisons have been and still are places for acquiring criminal technique and attitudes is perhaps the limitation most frequently mentioned by prisoners who have written about their experiences. A paroled convict in the generation prior to the turn of the century insisted that "at present the English convict prisons are breeding-dens for the procreation of professional thieves."[2] A more recent burglar calls the prison a school for crime and recites how he was influenced in prison by his cell mates, and how he

[1] By One Who Knows, *Inside Out; An Interior View of the New-York State Prison*, pp. x–xi, New York, 1823.

[2] By a Ticket-of-Leave Man, *op. cit.*, p. 27.

associated with cell mates in criminal ventures after release.[1] Most of the shortcomings of prisons are revealed in Jack Black's account of his criminal career, including steeping in crime, prison horrors and corporal discipline, and criminal ventures with former cell mates.[2]

In regard to corporal punishment in prison, Black said that "the flogging just hardened me, that's all. I found myself somewhat more determined, more confident, and with a feeling that I would play this game of violence to the finish."[3] The reactionary effect of torturous punishments is also revealed by still another prisoner who writes of his experiences: "At their best they crush and terrify; at their worst they increase the victim's hatred of mankind and make him but more determined and ruthless in his resolution to even up the score."[4] According to this analyst, prison experience and discipline are so far from reforming that on the day of release the prisoner's attitudes toward the world are unwholesome, bearing abundant ill will toward society and a desire to get revenge.[5] Mental deterioration—so-called prison stupor—still is considered to be one of the significant by-products of prison life by Victor Nelson, another revelator of experience in penal institutions.[6] One of the most revealing accounts of the limitation of reformatories and correctional institutions is made by a young offender who spent the greater part of his life in correctional institutions from childhood to young adulthood. The same themes emerge from this offender's account of his institutional experiences: reaction to rigid and brutal discipline, genesis of antisocial grudges, and the acquisition of criminal technique, code, and attitudes.[7]

The criticisms as revealed by prisoners themselves cover most, but not all, of the principal shortcomings of penal institutions as reforming agencies. It is interesting to note that the revealed limitations are not easily overcome even in a progressive system. Some reduction of the elements unfavorable to reform can be made by a progressive system of penal institutions. For example, the elimination of unnecessarily harsh discipline might prevent antisocial grudges from being engendered in a few cases, but there is no reason to suspect that more equable discipline will entirely eliminate the growth and fixation of the antisocial attitudes that naturally develop out of the interaction between inmates and

[1] By a Burglar, *In the Clutch of Circumstance; My Own Story*, pp. 54*ff*., New York, 1922.

[2] Black, Jack, *You Can't Win*, pp. 267, New York, 1926.

[3] *Ibid*., p. 278.

[4] Clark, Charles L., and Earle Edward Eubank, *Lockstep and Corridor; Thirty-five Years of Prison Life*, p. 160, University of Cincinnati Press, 1927.

[5] *Ibid*., pp. 162–163.

[6] Nelson, Victor, *Prison Days and Nights*, Boston, 1933.

[7] Shaw, Clifford R., *The Jack-Roller*, pp. 47–163, Chicago, 1930.

keepers. The proper classifications and segregation of inmates who are exposed to an enriched institutional program, based on the offenders' needs and interests in work, education, and recreation, can likewise reduce some of the schooling in crime that takes place under the surface of life in penal institutions. But such a program cannot eliminate further corruption and maturation of inmates. Interaction between inmates and the effects of inmate contacts will continue in any system, they continued *sub rosa* even under the most rigid silence rules and under the system of single cells. Parole supervision and prisoners aid societies have attempted to assist the convict in his postinstitutional adjustments but they have not remade a world that is suspicious of and distant to ex-convicts. And they have not greatly counteracted the many forces in postinstitutional life that operate against reformation—occupational instability, the meeting of former cell mates or partners in crime, and so forth.

Limits of Reformation

Undoubtedly there is a vital subjective element in the reformation process which institutional handling cannot control. The institution, at best, only provides opportunities or facilities for reform and rehabilitation. The motivation, *i.e.*, the desire to "go straight" or to begin anew, must come largely from the offender himself. Such a reformable state of mind also involves a profound change in attitudes and values, especially in fairly well-matured offenders. To be anxious or willing to accept the routine of a law-abiding existence means a fundamental conversion in the scheme and philosophy of life of many convicts. The workable formula for instilling a desire for reform and effecting fundamental changes in attitudes toward life has not been discovered in institutional handling of offenders. The part that an institutional program plays in positively reconditioning the personality of an offender is not as yet known. Studies will have to be made of the reforming process of offenders before it becomes clear just what role institutional conditioning plays or can play in the process. And institutional programs will have to be geared to the points that directly assist the reforming process. Progressive prison administration has merely been able to surmount some of the obstacles to ready rehabilitation of offenders but has not found the secret of positive conditioning for reform of the personality.

The astute Livingston contended in his writings a hundred years ago, when the ideas for modern prison systems were being formulated, that "no succession of involuntary acts to which adults may be coerced is likely to produce permanent habits of reformation: they must be the effect of the will."[1] Livingston goes on to say that reformation is slower

[1] *The Complete Works of Edward Livingston on Criminal Jurisprudence*, National Prison Association, Vol. 1, p. 559, New York, 1873.

than corruption and that, in order to achieve reform, prisoners must do things voluntarily and from their own inclination.

A hundred years later, after canvassing the prison systems of the world, Gillin assumes, as do so many others, that the burden of reforming is on the institutional program rather than on the offender. "How silly of us to think that we can prepare men for social life by reversing the ordinary processes of socialization" with silence, repressive regimentation, conformity to meaningless rules, work without motive, rewards for betrayal, fear of punishment as a motive for good conduct.[1]

It should be understood, however, that prisons deal with a large proportion (no one knows how large) of offenders who are unreformable, either because criminal maturation has proceeded too far or because personal and social background factors make a law-abiding existence difficult. The habitual offenders acts in the United States and the laws of custodial detention for abnormal and habitual offenders in several European countries are a recognition of this fact, and of the fact also that protective detention rather than rehabilitation is needed for a certain class of offenders.

Vervaeck, the Belgian criminologist, contends that there is a large proportion of recidivists who are unimprovable and that the signs of unimprovability are to be found in a wide assortment of factors, including the number of crimes, repetition in a short interval after release from prison, peculiarity of the crime, negative reaction to punishment, unfavorable conduct during incarceration, indifference to help and guidance, quick return to old environment and associates. But such visible signs are not sufficient, according to Vervaeck. To them should be added certain abnormal constitutional factors, since he claims that 90 per cent of the recidivists are biologically abnormal individuals "with more or less strong psychological, characterological, emotional and moral defects."[2] Many authorities, especially those who subscribe to the view that most repeated, habitual, and professional criminals are socially processed in careers of crime rather than constitutionally criminal or maladjusted types, would contend that Vervaeck's latter estimate is a gross exaggeration, although they would admit that a large percentage of adult recidivists are unimprovable.

While not thinking of the matter in the fatalistic sense of unimprovability, the Gluecks, whose follow-up studies will be mentioned later, discovered that several factors in the personal history and traits of inmates are related to success and failure of the ex-convicts in postinstitu-

[1] GILLIN, JOHN LEWIS, *Taming the Criminal*, pp. 295–296, New York, 1931.

[2] VERVAECK, LOUIS, "Gibt es Anhaltspunkte für die Unverbesserlichkeit des Verbrechers?" *Monatsschrift fur Kriminalpsychologie und Strafrechtsreform*, Vol. 25, pp. 444–449, 1934.

tional life,—a fact that leads one to believe that individuals by virtue of their particular favorable or unfavorable social background and personal characteristics constitute good or poor risks for reformation. But the Gluecks consider that the reformability of prisoners is not so highly dependent upon the operation of biological and constitutional abnormalities as Vervaeck believes.

Follow-up Study of Men Released from the Massachusetts Reformatory

It was decided by the Gluecks, in order to see the extent of relapse into crime or abandonment of criminal careers, to follow up the cases of the 510 men whose parole terminated in 1921 and 1922, five years after the expiration of sentence in 1926 and 1927. These 510 cases were actually released from the institution over a period of years from 1911 to 1922. In other words, the postinstitutional and postparole period combined ranged from 5 to 15 years.[1] Of the 510 cases, the criminality of 422 of the men was traceable. The criminal record of 45 was not traceable; 2 of the cases were in a mental hospital in the postparole period; 41 had died prior to or during the five-year postparole period. Of the 422 traceable cases 89, or 21.1 per cent, had no discoverable criminal record; 307, or 72.7 per cent, had committed crimes which were officially recorded; 26, or 6.2 per cent, committed crimes for which they were not arrested. Consequently, practically 80 per cent of the cases represented failures.[2] It was deemed important to divide the 422 cases into categories of success, partial failure, and total failure, according to the degree of the law-abiding record. Again 21.1 per cent of them were considered successful, since they had no traceable record of violations—no police, court, or prison record, except occasional automobile violations, no dishonorable discharge or desertion from the army or navy, no unofficial criminal deeds (deeds unapprehended). Of all the cases, 16.8 per cent were classified under partial failures, which included cases that had received two convictions on minor charges, arrest for not more than three minor offenses, as many as five arrests for automobile violations or drunkenness, although no single case depended for its classification solely on a mere record of automobile violations or drunkenness. Of all the cases, 62.1 per cent fell into the category of total failure, which included cases arrested three or more times for serious offenses, more than three times for minor offenses; cases of those convicted one or more times for a serious offense; cases with convictions for more than five charges of drunkenness; cases of desertion or dishonorable discharge from the army

[1] Glueck, Sheldon, and Eleanor T. Glueck, *Five Hundred Criminal Careers*, pp. vii, 85, New York, 1930.

[2] *Ibid.*, p. 184.

or navy; cases wanted for escape or for being a fugitive from justice, and for "known commission of serious offenses, or a continual course of minor offenses, for which the men were somehow not arrested or prosecuted."[1] According to this form of reckoning, the total failures were almost four times as prevalent as the partial failures.

Of the original 510 cases, the prereformatory record of 489 were classifiable under the three categories. (By prereformatory record was meant the offense record previous to and excluding the crime for which the man was sentenced to the reformatory.) The percentage distribution of the prereformatory records of the men in the same categories of success, partial failure, and total failure was: 6.6, 5.7, and 87.7. Thus, by the postparole period, considerable diminution or settling down is evidenced by a much higher percentage of success and a much lower percentage of total failure.[2]

In attempting to gauge the influence of the reformatory on postinstitutional life of the men, an analysis was made of 356 of the 510 cases on which the investigators felt they possessed adequate information. In 128, or 35.9 per cent, of the cases, it was reasonable to conclude that the reformatory "had no effect in curbing their criminality," since they had committed serious offenses prior to their sentence to the institution and continued to commit serious offenses during parole and the postparole periods. In 129, or 36.3 per cent, of the cases, it was felt that the reformatory should be supposed to have exerted a favorable influence, since they had committed serious offenses in their prereformatory records, showed some improvement during parole, and some improvement also in the postparole period. In 55, or 15.4 per cent, of the cases, the Gluecks felt that neither the reformatory nor parole supervision could be credited with exerting an influence for the better, since these cases "committed serious offenses prior to their sentence to the reformatory," "continued to commit them during parole," but "showed some improvement in the postparole period." There were 44 cases, or 12.4 per cent, whose postinstitutional record indicated that "while the reformatory had some influence on the men, it was only temporary, or that the influence was that of parole rather than of the reformatory." This group of cases consisted of men who committed serious offenses before incarceration and during the postparole period but whose behavior showed some improvement during parole. It was felt that the reason for the slight improvement in the parole period was probably due to the deterrent effect of parole supervision, which, when terminated, left no traceable permanent transformation.[3]

[1] *Ibid.*, pp. 188–189.
[2] *Ibid.*, pp. 190, 359–360.
[3] *Ibid.*, pp. 225–226.

A follow-up study by the Gluecks of this same group of Massachusetts Reformatory men in a second five-year period, following the first five-year postrelease period, revealed the fact that there was a decreasing trend in criminal behavior. Making comparable contrasts, it was found that 32.1 per cent of the men in the second five-year postrelease period were nondelinquent, while only 21.5 per cent of the cases were nondelinquent in the first five-year postrelease period. By the fifth year of the second follow-up period, 42.7 per cent of the men were nondelinquent. ("Nondelinquent" in this study means that the men were not involved in official or unofficial violations or crimes.) There were further indications of the trend away from criminality in the second five-year period. Of those who had committed serious delinquencies in the first five-year period 21 per cent committed merely minor offenses in the second period, while 10.2 per cent of them had become nondelinquent. Of those who had committed minor infractions in the first five-year period, only 9.6 per cent relapsed to serious offenses in the second five-year period, while 19.1 per cent had become nondelinquent in the second period. Of those who were nondelinquent in the first period, only 3.5 per cent and 7.9 per cent committed serious and minor infractions, respectively, in the second period, while the remainder continued nondelinquent.[1]

Apart from official and unofficial criminality, the men in the second period showed continued improvement in their social condition over and above their status in the first five-year period—especially in living conditions, family relationships, economic responsibilities, industrial stability, and use of leisure time.[2] The trend away from criminality and the improvement in social condition were considered by the Gluecks to represent primarily the result of a settling-down process with advancing age—a process that seems, from the cases studied, to continue up to the thirty-sixth year. Before this time, the settling-down process is naturally eliminating the cases that can settle down to the demands of a law-abiding existence. Those that continue on in crime up to and after the thirty-fifth year are the cases which, according to the Gluecks, are probably unreformable because of innate or ingrained mental liabilities.[3]

The point of main interest here is that the Gluecks contend that the settling-down process is an accompaniment of time or aging and, by implication, is not a function of carry-over from reeducation in the reformatory and by parole supervision. It almost appears, although they do not boldly say so, that the men who settle down before the middle thirties are destined to settle down with or without reconstructive

[1] GLUECK, SHELDON, and ELEANOR T. GLUECK, *Later Criminal Careers*, pp. 75–76, New York, 1937.

[2] *Ibid.*, pp. 17–61.

[3] *Ibid.*, pp. 122–123, 132–133.

efforts of the reformatory and parole, and the men who do not settle down before the middle thirties are destined to continue in crime, regardless of rehabilitative efforts. Such implications, if they are correct, give validity to measures of social defense for the unimprovable, as has been experimented with in Belgium, and place the responsibility on the scientific prognostication of offenders for improvability or unimprovability on courts, penal and reformatory institutions, probation and parole, rather than on the deterrent and rehabilitative possibilities of these agencies. If this position is substantiated by further careful researches, it would imply that the whole concept of reformation and deterrence that underlies penal and reformatory systems today, as well as the practices supposed to make for reeducation and rehabilitation of offenders, must be revised.

Incidentally, the Gluecks' findings relative to the settling-down process with advancing age and the natural selection of improvable and unimprovable cases by age give some support to the contentions of Goring, who made the appearance of innate criminal diathesis a function of age, and to the concept of the constitutional criminal as put forward by the European criminologists.

A Follow-up Study of Massachusetts Reformatory Women

In another follow-up study, the Gluecks investigated the outcome of 500 women "whose parole from the Women's Reformatory at Framingham, Massachusetts, expired between the years 1921 and 1925."[1] The cases "were selected in consecutive order, beginning with the date of December, 1924, and working backward until the 500 cases were collected."[2] These investigators were able to assemble information on the outcome of the cases after release from the institution, with a view toward shedding light on success and failure and the factors connected therewith. They were able to make many important comparisons as to the status and condition of the cases prior to commitment, during the parole period, and for a five-year postparole period. Only a mere handful of the many important findings can be mentioned. Of the cases 99 per cent were officially delinquent prior to the sentence leading to commitment; 76.4 per cent, in the postparole period; and 52.6 per cent, after the postparole period.[3] This was interpreted to mean that the trend

[1] Glueck, Sheldon, and Eleanor T. Glueck, *Five Hundred Delinquent Women*, p. 336, New York, 1934.

[2] *Ibid.*, p. 336.

[3] *Ibid.*, pp. 539, 508. It should be understood that these percentages were calculated from only those cases on which the information as to delinquency or nondelinquency was definitely known, excluding unknown cases and inapplicable cases because of death. Delinquency, according to definition, included official as well as unofficial record of antisocial behavior.

was toward improvement, although the trend might partly be explained by the elimination, with the passing of time, of some of the worst cases through death from syphilis and alcoholism and through incarceration in institutions for the psychotic and feeble-minded.[1] The reason for the drastic fall in percentage of delinquency in the period after the five-year postparole period is not clear, unless a settling-down process or considerations of the time span and thoroughness of investigation have caused the largest part of the reduction.[2]

The investigation also disclosed that 15.2 per cent of the cases were nondelinquent after release on parole and after expiration of sentence; 65.4 per cent were delinquent during parole or after release from the reformatory; 19.4 per cent were "well behaved" on parole but were delinquent after the conditional period was over. The first group, according to the Gluecks, may be considered as having been partially influenced by reformatory, but it was recognized that the characteristics and experiences of the particular group predisposed them to a more favorable response to institutional treatment. The most important reformative influences of the institution were thought to involve deep attachment to a member of the reformatory staff, the sobering shock of incarceration, and the effect of new standards of life or vocational interests inculcated in the institutional treatment program. But the cases,

[1] *Ibid.*, pp. 246–247.

[2] In the fifth year of the parole period, the Gluecks found 203 cases delinquent, 149 nondelinquent, 81 unknown, and 67 inapplicable (dead, in institution throughout, or for other reasons). In the period after the postparole period, they found 175 cases delinquent, 158 nondelinquent, 98 unknown, and 69 inapplicable. Throughout the postparole period, they found 305 cases delinquent, 94 nondelinquent, 47 unknown, and 54 inapplicable. (*Ibid.*, pp. 508, 504.) The increase in the unknown and the inapplicable cases from the postparole period to the after postparole period amounts to 66 cases. Let us assume that these cases if known and in the open would all have been delinquent. Then the findings in the postparole period would have been 241 delinquent and 158 nondelinquent, or 60.4 per cent delinquent (of a total of 399). This would still fall far short of the 76.4 per cent delinquent in the postparole period. If the settling down is not responsible for most of the drop from 76.4 per cent delinquent in the postparole period to 52.6 per cent delinquent in the after postparole period, then the reduction must be accounted for by the shorter period to become delinquent in the after postparole period than in the five years of the postparole period and by less thorough investigation of the cases in this after postparole period than in the postparole period. The Gluecks in their study say practically nothing about their investigations in the after postparole period. It is possible that the latter considerations may be responsible for the reduction in the percentage of delinquency. That this may be the case is confirmed by the findings in just the fifth year of the postparole period, as compared with the entire five-year span of the postparole period. A much smaller number were found to be delinquent in the fifth year than in the whole period, even after making allowances for the increase in the number of unknown and inapplicable cases.

by virtue of their more favorable background and personal traits, were more reformable in the first place.

However, the reformatory produced certain improvements in health, recreation, industriousness, home and sex interests even among the relapsing cases, in spite of continued delinquency after release from the institution. But 61 of the cases claimed that they were definitely injured by the reformatory experience through acquisition of knowledge of methods of perversions, prostitution, abortion, of feelings of inferiority, of unwholesome companions, and of how to avoid arrests and to commit more serious crimes.[1]

Investigation of recidivation during the postparole period revealed the fact that 23.6 per cent of the cases were found to be nondelinquent (meaning thereby, cases "who abandoned their delinquencies immediately on discharge from the reformatory or before the end of the end parole"); 23.8 per cent, "up-grade" delinquents (meaning thereby, cases which "abandoned their delinquencies at least a year before the end of the postparole period"); 52.6 per cent, delinquents (meaning thereby, cases who repeated "throughout the five-year postparole period"). The "up-grade" delinquents in several ways were not so favorably endowed and did not possess so many favorable background factors as did the nondelinquents, but they were superior in background and traits to the delinquent. The "up-grade" cases were, in general, younger women than the other two groups and were in a sense still adolescing when released from the institution. With the passage of time, their more advantageous endowment and background enabled them to respond to the more stabilizing influences and schemes of living, to settle down, and to forge ahead of the delinquents.[2]

From insight into the case records, rather than statistical analysis of factors, important clues were discovered as to some of the subtle influences and conditions that assist the reforming or settling-down process of delinquent women: wholesome marriage and responsibility of rearing children; supervision and guidance of a dominating personality in form of husband, relative, or employer; decrease of promiscuous sex interests with maturation; absorption in a satisfying job; freedom from family responsibilities in some cases; a fresh start in a new community; a simple life in a protected environment, especially in feeble-minded cases; a desire to reform and a conviction that delinquency does not pay (discovered in very few cases); religious conversion (also infrequent in the cases).[3]

[1] *Ibid.*, pp. 251–252, 258, 259–262.
[2] *Ibid.*, pp. 265, 269–272.
[3] *Ibid.*, pp. 280–281.

Outcome of Parole and Probation

It is almost impossible to procure a comparable operational statement of the amount of failure of parolees and probationers. The definitions of what constitutes a violation vary in time and place; the policies of granting parole and probation vary also; the amount and quality of supervision by parole or probation officers vary; the method of calculating the percentage of violation varies. Several years ago, Clair Wilcox concluded that the statistics on parole violation meant very little, since the percentage of success or failure on parole was influenced up or down so greatly by the operation of variables not truly related to outcome.[1] In regard to the method of computing percentage of violation on parole, Burgess calls attention to the fact that 1.1 per cent of the total number of men on parole from one penal institution in Illinois during 1935 were returned for committing new crimes; 6 per cent of the total committed major violations; 12.4 per cent, major and minor violations. On a different base of calculation—the number of men placed on parole in a given year and the number of these violating in that year—the percentage would be 20; over a three-year period after release on parole the violation rate would be near 40.[2] Of 3,076 persons placed on parole in New York State in 1934, 10.9 per cent violated the terms of parole by the end of 1934, 27.6 per cent by the end of 1935, and 34.9 per cent by the end of 1936.[3] The criterion of violation is the "declaration of delinquency" and includes those absconding, those arrested, and general violations of parole, comparable to the major (committing a new crime) and minor (violating specific terms of parole) in the Illinois definitions.

In general, the percentages of parole violators for various states of the United States are fairly low, no matter what the base of calculation is and what the criteria of violation are. If the base is taken as the total number of persons carried on parole in a given year, accumulated from the present year and previous years, the violation rate will be very low (under 10 per cent and slightly above 10 per cent). If the base is taken as the number of persons released on parole in a given year, the violation rate of this group during the same year will be higher than the violation rate above and still higher two and three years after release on parole, because of accumulation of violators.

[1] Wilcox, Clair, *The Report of the Pennsylvania State Parole Commission to the Legislature* 1927, Part II, pp. 194–195, 198, Philadelphia, 1927.

[2] Burgess, Ernest W., "Parole and the Indeterminate Sentence," in the State of Illinois, *Twentieth Annual Report of the Department of Public Welfare*, A. L. Bowen, Director, p. 688, June 30, 1937.

[3] State of New York, *Seventh Annual Report of the Division of Parole of the Executive Department* for the year January 1, 1936, to December 31, 1936, pp. 108–119, Albany, N. Y., 1937.

The most practical index by which to judge the operational effectiveness of parole is the percentage of violators among those placed on parole during a given period (say, during a given year) after the duration of at least three years. A still better index—but one requiring facilities for special follow-up investigation that most parole offices do not have—would be the percentage of violators among those placed on parole in a given year during the period of supervision and during a postparole period of five years after termination of supervision.

There is very little evidence from available official statistics on parole violation to indicate just what influence parole supervision has on parolees during the parole period and after the parole period. Does parole have a stabilizing effect on parolees by virtue of the threat of return to the institution in the event of violation of the terms of parole? Does the supervision of parole officers, beyond their watchdog functions, have a stabilizing effect? Does any constructive, rehabilitative influence resulting from parole supervision carry over into the postparole period when supervision is ended? These are questions on which there is little insight. The Gluecks in their follow-up investigation of the Massachusetts Reformatory women found that the percentage of failures (violators) was much smaller during the parole period than after the parole period (*i.e.*, in the postparole period) and still much smaller during the parole period than in the period prior to commitment to the reformatory.[1] From intensive study of the activities of the women during the parole period, the Gluecks found that, in comparison with other periods, the women, apart from their rate of relapse on parole, showed "some, and often marked, improvement" during parole, as judged by better environmental conditions, stronger family ties, better work habits, greater assumption of economic responsibilities, less harmful leisure-time activities, improved habits, better companions, greater attention to church duties, and so forth.[2] With these major findings in mind, the investigators concluded that "the mere fact of being on parole has some deterrent and settling effect on offenders."[3] But whether the improvement in cases and the reduction in relapse rate could be charged to the quality and amount of parole supervision is quite dubious, since this supervision was very loose and meager and since there were so many things left undone in the current parole practices that would need to be done if parole supervision was to be a more positive force for rehabilitation.[4]

[1] GLUECK and GLUECK, *Five Hundred Delinquent Women*, p. 539. Prior to commitment, 99 per cent were delinquent; during parole, 55 per cent; during the postparole period, 76 per cent.

[2] *Ibid.*, p. 215.

[3] *Ibid.*, p. 330.

[4] *Ibid.*, pp. 330–331.

In their study of the background and outcome of Massachusetts Reformatory men, it was found that 55.3 per cent of the men relapsed during the parole period, 78.9 per cent were violators in the postparole period, and 93.4 per cent had committed delinquencies prior to the offenses for which they were sentenced to the reformatory.[1] The violation rate, therefore, was lower in the parole period than in the period after parole and very much lower in the parole period than in the prereformatory period. But in this study of male parolees the Gluecks did not have so much to say about the improvement or lack of improvement of the cases during parole, as judged from activities, habits, and living conditions, as they did about the improvements in the parole period of the reformatory women. The implication is, again, that the mere fact of being on parole exerts a steadying influence, while positive rehabilitative effect of parole supervision could not be isolated or discovered in this follow-up study.

The Children's Bureau follow-up study of 623 boys six to nine years after discharge from five boy's correctional schools revealed the fact that while 79 per cent were not returned to the institution after release on parole, 66 per cent had been arrested one or more times since their first parole from the institution and 58 per cent were convicted one or more times since release on parole.[2] Assuming that the parole supervision of juveniles is likely to be better as a rule than that of adults and that this follow-up investigation did not inquire into the postinstitutional conduct record as thoroughly as did the Gluecks, the showing of the boys cases on parole is certainly not gratifying.

It should be understood that the parole violation rate as reported by official departments or bureaus of parole is generally much lower than the rate of relapse found in special follow-up outcome studies, for the reason that the offices do not have the facilities for ferreting out intensively the violations of the cases and report only those that come to their attention. Besides, the special follow-up studies use a longer period in years for reporting failures than do parole offices for reporting annual violations. Consequently, the cases have a longer opportunity to recidivate and to increase the rate of failure.

The prevalent way of quoting probation outcomes is to indicate the condition or type of discharge at the termination of probation. Hence,

[1] GLUECK and GLUECK, *Five Hundred Criminal Careers*, pp. 169, 184, 190. By another system of accounting of the cases on parole, 69.6 per cent were considered violators. (Compare data on p. 190 with those on pp. 167–169.) But even with this raising of the percentage of failure on parole, it is still lower than the percentage of failure after parole.

[2] BOWLER, ALIDA C., and RUTH S. BLOODGOOD, *Institutional Treatment of Delinquent Boys*, Part 2; A Study of 751 Boys, U. S. Department of Labor, Children's Bureau, Publication 230, pp. 56, 74, 75, Washington, D. C., 1936.

within a given year so many cases, which have accumulated in the current and previous years, will be discharged and the percentage of the total discharged who are discharged as having behaved satisfactorily or having violated the terms of probation can be computed. As a rule, the percentage discharged as satisfactorily completing probation in America is quite high, and the percentage listed as having defaulted and as having to be committed is low. For example, out of 4,705 probationers discharged from the Adult Probation Department of Cook County, Ill., during the year October 1, 1922, to September 30, 1923, 77.3 per cent were satisfactory, 3.5 per cent doubtful, 17.3 per cent unsatisfactory, 1.1 per cent committed to house of correction, 0.2 per cent committed to state prison and reformatory, 0.6 per cent dead.[1] The status at the time of discharge of 66,350 children probationers and 139,948 adult probationers, discharged from probation from October 1, 1907, to September 30, 1921, in the state of New York, is given as follows:[2]

Status	Children, per cent	Adults, per cent
Discharged with improvement	81.7	77.0
Discharged without improvement	4.0	6.5
Committed	13.7	9.7
Absconded and lost from sight	0.6	6.8

Again, the percentage of failures, including those not discharged with improvement, is low. Five years later the New York Probation Commission reported the status of discharged probationers at the time of discharge for adults and children, combined, as follows: 74.9 per cent discharged with improvement, 8 per cent, without improvement, 11 per cent rearrested and committed, and 6.1 per cent absconded or lost from sight.[3] The status of Massachusetts probationers, children and adults, whose probation terminated in 1936 was reported as follows: 75.4 per cent filed or discharged, 19.5 per cent surrendered to courts, 4.5 per cent defaulted, 0.6 per cent appealed.[4]

[1] *Twelfth Annual Report of the Adult Probation Department of Cook County, Illinois,* October 1, 1922 to September 30, 1923, p. 15.

[2] New York State Probation Commission, *Probation in New York State,* pp. 17–18, Albany, N. Y., no date (*c.*1922).

[3] State of New York, *Twentieth Annual Report of the New York State Probation Commission* for the year 1926, p. 58, Albany, N. Y., 1927.

[4] The Commonwealth of Massachusetts, *Annual Report of the Board of Probation for the Year ending December* 31, 1936, p. 7, Boston.

The very low per cent of failures and very high per cent of satisfactory discharges in probation results[1] reflect the selection of cases, especially in adult probation. The states using adult probation in the United States have laws limiting the application of probation to certain kinds of cases, usually the less serious in amount and type of crime. The good showing a man's record makes on the social investigation prior to recommendation for probation also affects the selection of cases. The low per cent of unsatisfactory outcomes reported by probation departments is quite likely to indicate merely the inadequate facilities of probation officers or departments to know the behavior of their cases under supervision. It also reflects the base of statistical reckoning. The percentage of failures (*i.e.*, defaults, absconding, rearrests, or commitments) would be much higher if a given number of persons placed on probation in a given year were taken as the base for calculation. And if the law-abiding or violating status of this group of probationers were checked two or three years after the persons were placed on probation, the percentage of failures would in all likelihood be still higher.

There have been few, if any, outstanding detailed follow-up studies of a given group of probationers during and after the period of probation. Chute cites one such study conducted in Erie County, N. Y., on 200 consecutive cases of adult probationers during a period approximately two and a half years following the completion of probation. Of these cases, 55 per cent had not been arrested throughout the probation period and postprobation period, while 27.5 per cent had failed (most of these in the probation period). If in calculating the per cent of successes and failures, the cases unknown, dead, and moved away were eliminated and only the nondelinquent and delinquent used, the percentage of failures as well as of successes would be considerably higher.[2]

One suspects also that, had this follow-up investigation probed as thoroughly into the official and unofficial infractions of the probationers as did the Gluecks in their follow-up studies of Massachusetts offenders, the rate of violation would have been much higher. Certainly the Gluecks' follow-up investigation of Boston juvenile offenders, who had the advantage of an excellent court, relatively well-developed probation service, and a child-guidance clinic, showed no such low percentage of failures, even making allowance for all the corrections necessary in age, facilities, and place to draw a comparison.[3]

[1] See several other reports on probation results reported from special as well as official sources in Elio D. Monachesi, *Prediction Factors in Probation*, pp. 10–13, Hanover, N. H., 1932.

[2] CHUTE, CHARLES L., "Probation and Suspended Sentence," *Journal of Criminal Law and Criminology*, Vol. 12, pp. 561–562, 1921–1922.

[3] See pp. 383–384.

On the other hand, it may be reasonable to suspect that comparable and adequate follow-up investigations of outcomes of adult probationers would necessarily show a lower relapse rate than outcome studies of parolees. If such is proved to be the case, one would suspect also that the more favorable showing of the probationers is not due to the greater influence of probation work on probationers but is due to the fact that probationers are less difficult cases and settle down more easily into a nondelinquent scheme of life.

From the preliminary results of a project with adult probationers, conducted from January 1, 1925, until September 1, 1926, by the Probation Bureau which was to demonstrate the value of adequate probation service to the Court of General Sessions of New York City, it was forecast that 85 per cent of the cases undertaken for supervision "will be permanently adjusted in the community."[1] Without a thorough follow-up study of the status of probationers a few years after release from supervision, it cannot be said that the results are really permanent. Undoubtedly this high proportion of cases reported as "doing well" represents the appraisal of probationers by the staff during the period of supervision. Naturally, one would expect offenders to do better in the period of supervision than in the period after supervision has been relaxed. But this is just a small part of the total explanation for the superficially high proportion of success.

The bureau carefully selected the cases it undertook for probation supervision. After careful investigation it took only 19 per cent of a group of 2,976 offenders. Case loads of the probation officers in the demonstration project were placed at 50 cases per officer, so that they would be low enough to allow intensive supervision. The probationers were required to report weekly to the bureau, if employed; daily, if unemployed. Probation officers made visits twice a month to the home of each case for purposes of check on the conduct of the probationers. Wavering probationers were brought into court for reprimand as soon as spotted. Under conditions of good facilities for close supervision of a select group of cases, we should expect a high percentage of successful adjustments during the period of supervision. Consequently, all that this study tells us about the potentialities of probation service is that, if an agency carefully selects the cases it undertakes for treatment, taking only those with whom it can do something positive, and places them under close supervision, it should be able to claim a high rate of successful outcomes.

The cases would probably have made good without probation assistance, since they were good risks for settling down into a law-abiding life

[1] Cooley, Edwin J., *New Goals in Probation*, p. 68, Albany, N. Y., 1926.

prior to probationary effort. Hence, the Probation Bureau's experiment was not a test of the effectiveness of probation service in reconstructing the lives of probationers. It was, however, a test of the value of according probation to those cases that can make a success of it. If parole and probation service could merely perform the task of selecting the easily reformable cases, which should be given the opportunity to "go straight," it would be performing a highly justifiable function, apart from any direct effect of supervision on the outcome of cases handled.

CHAPTER XX

TREATMENT OUTCOME AND PROGNOSIS

From the review of the operation of reconstructive measures accorded adult offenders by reformatories, parole, and probation, it appears that the treatment programs cannot be shown to immunize cases against further relapse into crime. The cases that do not relapse are probably successes, for reasons due not to the effectiveness of treatment on behavior but to the fact that the individuals themselves are favorable risks for ceasing further criminal activity. Close supervision of offenders on probation and parole undoubtedly acts as a deterrent on certain wavering cases or cases of dubious risk during the period of intensive follow-up contact. Improvability, whatever in the way of background and personality traits might be included under the condition, is apparently more important in determining successful outcome than the potentialities of existing rehabilitative measures. Before this position is definitely taken, it is necessary to discover whether rehabilitative efforts with juvenile cases show any detectable signs of being more operationally effective than the rehabilitative programs for adult offenders.

Follow-up Study of Boys Released from Juvenile Reformatories

The Children's Bureau undertook to study the postinstitutional outcome of a sample number of boys from five representative juvenile reformatories in the United States six to nine years after their release. Approximately 150 consecutive releases from each of the five institutions were selected for follow-up investigation as to outcome. Out of the 751 cases selected, 623 were located for the follow-up investigation by fieldworkers. The ages of the boys when contacted for the investigation ranged from nineteen to twenty-eight years, the mean, median and, modal age being slightly higher than twenty-three years, but not so high as twenty-three years and six months. Consequently, the boys followed up for outcome are of particular interest, since they fall in the young adult period of life—the period in which liability for committing offenses is the highest.[1]

[1] Bowler, Alida C., and Ruth S. Bloodgood, *Institutional Treatment of Delinquent Boys*, Part 2; A Study of 751 Boys, U. S. Department of Labor, Children's Bureau, Publication 230, pp. 4–6, Washington, D. C., 1936.

Investigation showed that 66 per cent of the boys had been arrested one or more times and 58 per cent had been convicted one or more times after the first parole from the institution, while 42 per cent had been committed to another penal or correctional institution after release from the reformatory.[1] Of these boys, 6 per cent committed their first offense in less than three months after original release on parole; 11 per cent, in from three to less than six months; 16 per cent, in from six to less than twelve months; 13 per cent, in not less than a year but less than two years; 9 per cent, in from two to less than three years; 4 per cent, in from three to less than four years; 3 per cent, in from four to less than five years; and 6 per cent, in five years or more. In this reporting, 32 per cent were found not to have committed any offense.[2]

As judged from further offense and commitment records, the majority of the boys apparently settled down into an ordinary law-abiding life after release from the reformatory, although from the various reportings, from 34 to 42 per cent of the cases were still wayward, from the legal standpoint. There are no criteria to tell us whether this is a good showing or not. All we can say is that most of the cases settled down. Since the record of settling down was taken on the boys six to nine years after release, it is impossible to know whether the extent of settling down will increase in successive years. One suspects that this will take place. In fact, the great majority who committed offenses after release committed their first postinstitutional offense within a year after release, and the number diminishes in each year thereafter.

However, it is impossible to tell from this study, as well as from most of the follow-up studies, whether the settling-down process is at all related directly to the institutional program of treatment. There is no group of offenders matched for sex, age, social condition, type of offense, and at the same time not handled by reformatories or by any treatment program (after disposition in court), by which to evaluate the results. If the follow-up information on such a control group were available, one would be able to tell whether the untreated boys had a smaller percentage of law-abiding records than the treated boys. If so, one might conclude that the reformatory treatment acted favorably on the treated cases.

The information on law-abiding outcomes of the boys followed up in the Children's Bureau study was broken down for each of the five institutions represented. According to the respective proportions of arrests, convictions, and commitments after original release, the California institution made the best and the Ohio institution the poorest showing, although the difference is not great. From a previous study of the organization and program in these two institutions, the California

[1] *Ibid.*, pp. 74, 75, 78.
[2] *Ibid.*, p. 73.

institution had more advanced and more abundant facilities for handling and treating boys than the Ohio institution. Could the small difference in showing be charged to the results obtained by the two institutions? If the difference in the proportion of law-abiding outcomes did not reflect variations in police and court action, one might answer the question in the affirmative. But the possibilities for differential showing of institutions to be caused by noninstitutional factors are so great that the differential could not very well be charged to the actual effects of respective institutional handling.

The fieldworkers and staff making the follow-up study attempted to rate the behavior and adjustment of the boys at the time of follow-up contact. According to these ratings, 58 per cent of the boys were conducting themselves satisfactorily, 34 per cent unsatisfactorily, and 8 per cent doubtfully.[1] As to adjustment to employment, 13 per cent were rated excellent, 23 per cent good, 25 per cent fair, and 39 per cent poor.[2] In regard to their economic adjustments (*i.e.*, self-support), the cases were rated 13 per cent excellent, 28 per cent good, 19 per cent fair, 24 per cent poor, and 16 per cent very poor.[3] In regard to social adjustments to family, friends, associations, and society generally, the ratings were 10 per cent excellent, 26 per cent good, 19 per cent fair, 28 per cent poor, and 17 per cent very poor.[4] A rating on general adjustment, including employment, economic, and social adjustment ratings, rating of present conduct, postparole conduct, and standing in present employment, returned 32 per cent successful, 33 per cent doubtful, and 35 per cent unsuccessful.[5]

These ratings, being made from the fieldworker's appraisal of the cases as he found them, are open to question as to their validity. However the items taken into account in making the evaluation pretty generally conform to what the ordinary middle-class person in America would consider satisfactory or unsatisfactory showing. For example, in making ratings on economic adjustment, the fieldworkers were asked to consider whether the young adult was self-supporting, dependent on relatives or agencies for help, living within his means, attempting to save, or accumulating debts out of proportion to his ability to pay. And the rating of very good, good, fair, poor, and very poor was made after due consideration of such facts. Those who have worked with rating scales to measure a qualitative (unquantified) variable know that the rating method herein used is perhaps the crudest that could be used, and that the results of the ratings are quite unreliable.

[1] *Ibid.*, p. 71.
[2] *Ibid.*, p. 85.
[3] *Ibid.*, p. 88.
[4] *Ibid.*, p. 91.
[5] *Ibid.*, p. 98.

As appraisals by workers for the Children's Bureau, the ratings are interesting, since they tend, as already indicated, to reflect middle-class norms of American social work and reform. Curiously enough, the proportion of unfavorable showing apparently is not larger on these conduct and adjustment ratings than on the arrest, conviction, and commitment reports.

One rather important admission is made in the interpretation of the Children's Bureau study. Instead of assuming that the juvenile reformatory has unlimited possibilities for curing delinquency cases, the study calls attention to recognizable limits of the juvenile institution in successful treatment of cases and indicates that there are factors determining success and failure in postinstitutional life beyond the control of reformatory institutions.

> Treatment for delinquency bears a certain resemblance to the attempt to "cure" tuberculosis. Treatment in a sanitarium for tuberculosis consists largely of measures designed to build up the patient's natural strength and resistance and so to arrest the progress of the disease. When a patient is believed to be strong enough to lead a reasonably normal life outside the routine and the protection of the sanitarium he is permitted to return home. But the ultimate successes and failures of the treatment depend largely on factors entirely beyond the control of the sanitarium authorities. Some discharged patients may go along quite well for some years but eventually break down again. Others may break down within a comparatively short time after leaving the sanitarium, but may respond to another period of care and never have further serious difficulty. Every such ex-patient has to be very much more on guard to protect and preserve a condition of health than does the individual who has never suffered from tuberculosis. Similarly, every boy who has been involved in serious delinquencies has to work much harder at keeping out of conflict with the law than does the boy who has never had that experience.[1]

Such a sane and sagacious admission of limits would not have been made by prison reformers and agitators for the erection of juvenile reformatories a generation ago. And it would not be made today by those who look upon the reformatory as having endless possibilities in reshaping the lives of children.[2]

[1] *Ibid.*, p. 3.

[2] One should consult other follow-up studies of the outcomes of children released from juvenile training institutions. See MABEL A. ELLIOTT, *Correctional Education and the Delinquent Girl*, Harrisburg, Pa. 1928, which contains the follow-up findings of 110 sex-delinquent girls from Sleighton Farm Girls' School in Pennsylvania and which is summarized conveniently in Walter C. Reckless and Mapheus Smith, *Juvenile Delinquency*, pp. 338–342, New York, 1932. See, also, the follow-up findings in the New York Crime Commission's study of boys released from a truant school, as reported in *From Truancy to Crime: A Study of* 251 *Adolescents*, Albany, N. Y., 1928. Another very excellent follow-up study traced the outcomes of 1,000 boys released from the Ford Republic in Oakland County, Mich. See COURTLAND C. VAN VECHTEN,

After Careers of Repeated Juvenile Offenders: Chicago and Boston

Healy and Bronner undertook to make a follow-up investigation in 1923 of repeated juvenile offenders who had previously been studied by them in Chicago according to early child-guidance clinic methods during the years 1909–1914. When followed up, most of the cases were in the young adult period of life—somewhat toward the middle and late twenties. It should be borne in mind that the 675 Chicago cases that could be traced for determination of success or failure had been handled by juvenile court, child-guidance, and correctional-school methods, according to the facilities of the time.

The follow-up investigation revealed that 61, 46, and 55 per cent of the boys, girls, and total cases were found to be failures. "Failure," in this investigation, meant the known violation of law as judged by adult court convictions and by commitments to adult penal or correctional institutions. In a few instances, failure included cases which, while having no official court or institutional record, were known to be "an actual drag on the community, vagrants, excessive drinkers, extreme loafers, those grossly immoral and thus indirectly costly to society."[1] Of the 420 males in the Chicago series, 256 were failures, and of these, 13 committed homicides and 39 turned out to be professional criminals.[2]

Of 311 boys committed to juvenile correctional schools, 219, or 70 per cent, were failures; and of the 109 not committed, 37, or 34 per cent, were failures. Of 169 girls committed, 92, or 54 per cent, were failures; and of 86 not committed, only 25, or 29 per cent, were failures. The institutional remedy as then available and used for juvenile offenders in Chicago, making allowances for the fact that these cases as children might be considered of more than average difficulty, apparently had "remarkably little curative effect."[3]

Healy and Bronner in 1923 followed up a series of 500 repeated male offenders which had originally been handled ten years earlier by the Boston juvenile court, and a series of 400 repeated offenders studied by them in the child-guidance clinical facilities of the Judge Baker Foundation in Boston during 1918 and 1919. The former will be designated

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Jr., *A Study of Success and Failure of One Thousand Delinquents Committed to a Boy's Republic*, Ph.D. thesis, University of Chicago Libraries, 1935. See, also, Charlotte Ruth Klein's study of *Success and Failure on Parole: A Study of* 160 *Girls Paroled from the State Training School at Geneva, Ill.*, M.A. thesis, University of Chicago Libraries, 1935.

[1] Healy, William, and Augusta F. Bronner, *Delinquents and Criminals; Their Making and Unmaking*, p. 17, New York, 1926.

[2] *Ibid.*, pp. 28, 31–34, 245–246.

[3] *Ibid.*, pp. 73–75.

as the first, the latter as the second, Boston series. As judged by adult court records (convictions), 21 per cent of the first and 26 per cent of the second Boston series were failures, as compared to 50 per cent, in the Chicago male series with known adult court convictions.[1] The rate of failure in the Chicago series was much greater than in the two Boston series. Healy and Bronner implied that the prevailing methods of handling and disposing of cases by the juvenile court in Chicago was not so effective as those used by the Boston juvenile court. The Boston juvenile court heard petty juvenile as well as the serious ones, whereas the Chicago court heard only the more serious cases. The Boston court had the advantage of a much better juvenile probation system than that of the Chicago court and relied on the use of probation much more heavily than did the Chicago court, which relied on commitments to institutions much more than did the Boston agency.

Making the information on Chicago boys and on the boys of the two Boston series comparable, the following results of institutional treatment were discovered. Out of 420 boys from the Chicago juvenile court, 311 were placed in juvenile correctional institutions and, of the 311, 172—or 55 per cent—were found later to have records in adult courts. Of 400 boys in the first Boston series, 118 were sent to juvenile correctional institutions, and of the 118, 31—or 26 per cent—were found later with adult court records. Of the 400 boys in the second Boston series, 159 were sent to juvenile correctional institutions, and of these, 57—or 36 per cent—were found to have adult court records.[2] The lower percentage of failures among the Boston series of institutional outcomes, as contrasted with the Chicago series, was thought to represent visible differences in correctional school programs and in the operation of parole. The Massachusetts institutions at the time had the more advanced institutional program and a much more adequately covering and functioning system of parole than had the Illinois institutions.

It is of interest to note the percentage of failure in the cases not sent to juvenile correctional institutions but handled in other ways, mainly by probation. Of 109 boys in the Chicago series not sent to juvenile institutions, 37—or 34 per cent—had adult court records later in life. The corresponding percentages for the first and second Boston series were 19 (53 out of 282) and 19 (46 out of 241).[2] Noninstitutional handling made a much smaller failure showing in all three series than did institutional handling. This could be interpreted to mean that institutional handling skewed cases toward failure more than did noninstitutional handling or that the institution received more serious cases for

[1] *Ibid.*, p. 248.
[2] *Ibid.*, pp. 76–77.

handling than did probation work. Both interpretations are likely to be true.

Healy and Bronner came to the conclusion, especially from the comparison of Chicago and Boston outcomes, that the "appalling" amount of failure that accompanied the prevailing methods of treatment of juvenile offenders is quite unnecessary. Isolating the percentage of success or failure in various individual and background factors, they concluded that "no conditions, whether of mind or body or life situations, preclude the possibility of checking the development of a criminal career."[1] Not even the poor traits in family background, which are often taken to reveal the operation of the hereditary factor, were associated very strongly with failure as against success. However, failure in excess of the average seemed to be associated with the cases that came from homes in which there was criminalism, alcoholism, and vice.[2]

Outcome of Clinic-court Treatment of Juveniles in Boston

A follow-up investigation was made by the Gluecks of the outcome of 1,000 boys who had been handled by both the Boston Juvenile Court and the Judge Baker Foundation childrens' clinic during a five-year period following the termination of the prescribed treatment.[3] The five-year post-treatment period was reckoned from the time the treatment recommended by the clinic had been officially completed in cases where the clinic's recommendations were carried out. In the cases where the clinic's recommendations were not carried out by the court, the post-treatment period was figured from the date of appearance in court.[4] Out of 923 cases on which the investigators believed they had sufficient information, 798 were found to be delinquent in the five-year period, 107, nondelinquent; 18, unexposed, by virtue of death, institutionalization, and military life. Eliminating the last group, 88.2 per cent relapsed and 11.8 per cent did not relapse.[5] Of the 798 repeaters, 71.2 per cent were convicted of serious offenses; 1.5 per cent were arrested for serious charges, but not convicted; 1.4 per cent committed serious offenses without being arrested; 1.6 per cent deserted or were dishonorably discharged from the army or navy; 20.9 per cent were convicted of minor violations; 1.5 per cent were arrested for minor charges, but not convicted; 1.6 per cent committed minor offenses without being arrested; and 0.3 per cent were wanted by police for minor violations.[6] Hence, 75.7 per cent of

[1] *Ibid.*, p. 206.

[2] *Ibid.*, p. 205.

[3] Glueck, Sheldon, and Eleanor T. Glueck, *One Thousand Juvenile Delinquents;* Their Treatment by Court and Clinic, p. 5, Cambridge, Mass., 1934.

[4] *Ibid.*, p. 149.

[5] *Ibid.*, p. 151.

[6] *Ibid.*, pp. 151–152.

the repeaters were involved in serious offenses after being handled by court and clinic.

In fact, the juvenile court-clinic boys' cases made a more unfavorable showing in percentage of recidivism, percentage of serious relapses, and frequency of conviction than did the young adult men from the Massachusetts Reformatory, whose outcomes were studied by the same method and procedure.[1]

The Gluecks concluded that, from the showing made by the boys, the juvenile court and the clinic "can hardly be credited with the accomplishment of their avowed purpose"—*i.e.*, the curing of delinquency.[2] This conclusion becomes very significant in view of the fact that here we have gross operational ineffectiveness of a clinic and court which would by all the standards of case work with children be rated at the top of their respective fields in America. The question is raised as to whether the juvenile courts and child-guidance clinics can really justify their existence, in spite of enjoying a reputation for efficacy and effectiveness. After producing the damaging evidence of almost total ineffectiveness, the Gluecks contend that the juvenile court and clinic have made an important contribution by cultivating a scientific, sympathetic—rather than a punitive—attitude toward offenders, by calling attention to the early sources of misbehavior, by educating parents and teachers to the needs of children, by gaining insight into etiology of crime. The investigators recommend their retention and improvement, on the assumption that in the future they may yield good results, if improved.[3]

Results of an Experiment in Foster-home Placement

The Judge Baker Foundation undertook to discover "the possibilities of foster-home treatment of children and adolescents who present problems of misconduct or who exhibit undesirable habits or personality characteristics."[4] Five hundred and one cases, which were handled by the Judge Baker Foundation clinic in an eight-year period and which at the same time had been treated by placement in foster homes, became the basis for the appraisal of foster-home outcomes. Of the 501 cases, 286 were boys; 215 girls; 300 repeated offenders (60 per cent); 104 first offenders (20 per cent); 71 nondelinquents with problems of personality (14 per cent); 26 nondelinquents with problems of habits (6 per cent).[5] Classified according to mental findings, 333 (66 per cent) of the cases were normal mentally; 49 (10 per cent), defective mentally; 5 (1 per cent),

[1] *Ibid.*, pp. 162–165.
[2] *Ibid.*, p. 169.
[3] *Ibid.*, pp. 233–259.
[4] Healy, William, *et al.*, *Reconstructing Behavior in Youth*, p. 227, New York, 1929.
[5] *Ibid.*, p. 305.

psychotic; and 114 (23 per cent), abnormal and peculiar personalities.[1] The cases, therefore, represent a considerable concentration of difficult problems.

The outcomes of placements in foster homes were considered as success or failure according to the following criteria: "Success, most conservatively stated, means that the individual, whether presenting behavior, personality, or habit problems, has made a steady gain in his ability to master his difficulties and maintain his position as a desirable member of a family and of a community. We have not meant by success that the problem individual has become a person without blemish, or, that once placed, he has become suddenly transformed. Such a metamorphosis occurs but rarely. Many of the individuals whom we have called successes have shown some relapses, but these recurrences were at increasingly great intervals, so that the individual could be maintained in a foster home and seemed to be progressively conquering his faults. Practically speaking, they are cured cases in the foster home. The failure group represents those whose delinquencies persist or whose personality difficulties remain or increase, or whose habits are largely unmodified, so that they do not adjust satisfactorily to conditions in family life."[2]

Analyzing the outcomes of 339 cases that were placed by private agencies which had the best facilities for supervising the placements, it was found that the delinquents with normal mentality showed a very much higher percentage of success than the delinquents with abnormal mental and personality traits (85 *vs.* 40); and only a slightly lower percentage of success than the nondelinquent behavior cases with normal mentality (85 *vs.* 95).[1]

The reasons for the extraordinarily high percentage of success as compared with other outcome studies are probably to be found in the particular criteria and methods of appraising success and failure. In the first place, the appraisal of success and failure was made from the behavior displayed during the placement, rather than in a period after the children had been released from placement supervision. In other words, it is to be expected that the cases, while still under treatment and under control of a rather high type of foster-family homes and under the close supervision and guidance of child-placing agencies with excellent facilities, should display a high degree of improvement. In the second place, these cases under very special supervisory control did not have the same opportunities to be held responsible for misconduct and delinquencies as would the children in other circumstances. In other words,

[1] *Ibid.*, p. 307.
[2] *Ibid.*, pp. 232–233.

their infractions were overlooked by family, school, and agency more than they would have been in less controlled circumstances. In the third place, the investigators appraised the records of cases in which they had a share in the treatment, and appraised the cases according to their own criteria. It is highly probable that competent persons who had not been connected or interested in the outcomes would have appraised the case records quite differently, used different criteria of success, and have found a much lower percentage of success. In the fourth place, the actual canons of success used were far less rigid than those used in most other follow-up studies, which consider relapses as failures. In this outcome study, relapses at increasingly longer intervals were considered successes. If all relapses of misconduct, whether officially or unofficially known, had been considered the criterion of failure, no such high percentages of success would have been obtained.

Results of an Experiment in Intensive Treatment of Delinquent Children and Their Families

This experiment was conducted under the direction of Healy and Bronner on 143 cases of delinquent children in Boston, New Haven, and Detroit. The approach was that of a highly geared child-guidance clinical setup, which attempted a thorough study of each case, under conditions of a very small case load, and used the best-suited treatment measures on the delinquent cases and their families. The specific content of the range of treatment moves on the children's cases was as follows: medical and dental treatment; interpretation of the case to the school, school adjustments, and tutoring; club or group affiliation; hobbies and interests cultivated; aid in obtaining employment; placement in a foster home; commitment to an institution; psychiatric treatment in first and successive interviews; no treatment because of blockage by parents or of children being sent very early to institutions. The content of the treatment for the children's families consisted of provision for medical care, securing economic assistance, initiation of educational and social contacts, attempted psychiatric treatment through interviews, and no treatment.[1] To be sure, any individual case was subject to one or more of these components of treatment—not to all of them.

The treatment period lasted, roughly, three years and an appraisal of the results was made during the treatment period and from the evidence of continued adjustment or continued delinquency in a two- to two-and-a-half-year period after the period of treatment.

The most significant findings of this study concern the relationship of outcome to the type of case. It was discovered that the cases, from

[1] Healy, William, and Augusta F. Bronner, *New Light on Delinquency and Its Treatment*, pp. 153–157, New Haven, 1936.

the standpoint of the most characteristic etiological status, fell into three classes: Group I, the cases with abnormal deviations of personality—26 cases; Group II, cases with a dominant social pathology within and without the family—50 cases; Group III, cases not included under the first two groups, representing really the least severe causative loadings—67 cases. The follow-up investigation two years after the treatment period showed that of the cases in Group I, 19 per cent were nondelinquent and 58 per cent continued delinquency; in Group II, 38 per cent and 46 per cent; in Group III, 72 per cent and 19 per cent.[1] The remaining of the 100 per cent in each group was composed of cases showing rare minor delinquencies; cases still in institutions, cases dead and whereabouts unknown. It is clear that the cases lacking abnormalities of personality and severe social pathology made by far the best showing in successful outcome, and the cases having abnormalities of personality made the poorest showing.

The outstanding conclusion from this research on treatment possibilities is "that with the most skilled treatment that we can offer in our present state of knowledge for the delinquent and for the family the most important determinant of outcome is to be found in our new orientation of prognostic possibilities."[2] This conclusion can be interpreted to mean that treatment measures in and of themselves become effective to the extent to which cases are dealt with according to their improvability. But the conclusion can also be interpreted to mean that knowledge of improvability or unimprovability prior to treatment is more important than treatment itself, and that measures of reconstruction are hardly worth while attempting on the unimprovable. The principal finding from Healy and Bronner's latest experiment in treatment possibilities, therefore, corroborates the findings of the Gluecks, who likewise found that background factors and personal characteristics made for success or failure, almost independent of treatment.

In reality, Healy and Bronner did not show whether this, that, or the other combination of treatment moves had any demonstrable connection with successful outcome. One wonders whether the cases that came out successfully would not have done so without all the elaborate treatment moves that were made on them. Moreover, with the very dubious connection between an intensively individualized treatment program and successful outcomes, one has good reason to doubt the efficacy of highly geared child-guidance clinic methods of treatment apart from their preliminary prognostic function. Finally, even if the intensively applied individualized treatment measures as used in Healy and Bronner's experiment had proved efficacious in and of themselves, it would be

[1] *Ibid.*, pp. 171–172.

[2] *Ibid.*, p. 196.

very doubtful that they could be widely used, because of the prohibitive cost to communities for insuring that a mere handful of youngsters would be salvaged thereby.

Prognosis

Considerable emphasis is now being given to the importance of recognizing the treatment possibilities and probable outcome of cases during and after a treatment period. In the absence of a strong showing of favorable treatment outcomes to date, it is even more imperative to find and use some adequate basis of prognosis and forecast as a means of insuring better results. Such procedure would amount to differential treatment of cases according to their understood improvability or unimprovability. There is good reason to believe that one of the principal reasons why offenders have not made a better showing in outcomes is that they have been subjected to probation, parole, and other measures of handling without sufficient prior knowledge of how well they can take a certain course of treatment.

From the very beginning of his clinical studies of the causative factors in individual cases of juvenile delinquents, Healy was impressed with the good, fair, and bad prognoses of various types of cases according to the particular loadings of factors involved and with the forecasting of treatment possibilities and outcomes as based on prognosis.[1] Vervaeck and several other clinical criminologists on the continent of Europe have likewise been impressed with the improvability and unimprovability of cases according to certain combinations of factors.[2] Von Rhoden has made a very comprehensive review of the important European studies on the question of the improvable and unimprovable prognosis. Some of his more important citations can be listed.

From his research on 773 cases at the Institute of Criminal Biology, Straubing, Bavaria, Viernstein is reported as finding that 93, 85, 72, and 41 per cent of offenders against state and religion, against the person, against morals, and against property, respectively, are improvable; while 3, 5, 14, and 43 per cent of the same categories, respectively, are unimprovable.[3] The remaining part of 100 per cent in each category is comprised of offenders of doubtful improvability. According to Viernstein's results, the property offenders are by far the most dispropor-

[1] Healy, William, *The Individual Delinquent*, pp. 162–164, Boston, 1915.

[2] See Vervaeck's opinions on the signs of unimprovability as given on p. 363.

[3] Cited by Friedrich von Rohden, "Methoden der Kriminalbiologie," in Emil Abderhalden, *Handbuch der biologischen Arbeitsmethoden*, Abt. IV, Teil 12, Heft 4, p. 743, Berlin, 1933. Viernstein's results are also reported by H. F. Hoffmann, "Arbeitsmethode und Bedeutung der Kriminalbiologischen Untersuchungsstellen für die Ermittlung des Sachverhaltes," *Monatsschrift für Kriminalpsychologie und Strafrechtsreform*, Vol. 23, p. 393, 1932.

tionately unreformable; at the same time, they are the most numerous. The conclusions from research at the Bavarian Institute of Criminal Biology on the prognosis of 200 occasional criminals, 200 criminals by inclination, and 200 habitual criminals are also reported by von Rohden. The first category contained 76 per cent improvable and 3 per cent unimprovable; the second, 67 per cent and 10 per cent; the third, 8 per cent and 70 per cent.[1] From these findings, it appears that the habitual offenders are overwhelmingly unreformable, while the other types are overwhelmingly reformable.

From the standpoint of previous criminality, Warstadt found that, of 50 first offenders, 60 per cent and 5 per cent and, of 100 recidivists, 47 per cent and 22 per cent were improvable and unimprovable, respectively, in each category.[2] Von Rohden contended that such a basis for prognosis is quite inferior to the two previous bases, which in turn are inferior to the etiological basis for prognosis. The latter basis for the most adequate discrimination of improvability and unimprovability reduces itself in von Rohden's thinking to a determination of whether offenders are criminals, due to a loading of hereditary or environmental factors against the person; in other words, as to whether offenders are endogenic or exogenic criminals. Quoting from Birnbaum, von Rohden reported that the following estimates of the proportion of endogenic and exogenic criminals in the criminal population are generally accepted by European criminologists: endogenic, from 35 to 40 per cent; exogenic, from 60 to 65 per cent. He laid down the rule that one should expect the prognosis of the latter type of offenders to be much better than that of the former.[3] American criminologists would undoubtedly raise serious doubts as to whether offenders can be adequately separated into endogenic and exogenic types as a result of causative factor analysis in individual cases. They would also doubt the validity and operation of the hereditary factors as used by European criminologists. Nevertheless, the distinction between the endogenic and exogenic criminals is fairly close to the separation that Healy and Bronner made between offenders whose cases show a dominant etiology of abnormal personality deviations and

[1] VON ROHDEN, *op. cit.*, p. 744.

[2] *Ibid.*, 746.

[3] *Ibid*, p. 749. Von Rohden mentions the possibility of gauging prognosis from several other standpoints, including constitutional type of the Kretschmerian formulation, but space forbids consideration of all of them. One rather novel basis for the determination of prognosis, not reported by von Rohden because the publication of the results came later than von Rohden's coverage, is offered by Martin Reidl, who made prognostic contrasts between criminals who began crime before eighteen years of age and after thirty years of age with cases that merely had close relatives who were criminal. See MARTIN REIDL, "Studie über Verbrecherstämmlinge, Spätkriminelle, und Frühkriminelle," *Archiv fur Kriminologie*, Vol. 93, pp. 125–135, 1933.

offenders whose cases show a dominant etiology of severe social pathology.[1] At the same time, the prognosis of the latter, which corresponds to the exogenic, was much better than the prognosis of the former, which corresponds to the endogenic. However, Healy and Bronner discovered a group of offenders not falling etiologically under either of the two previous categories, and this group had the best prognosis of all.

Although von Rohden called attention to the fact that improvability is in reality an ill-defined and uncertain condition and that prognosis must still be a relative rather than an absolute forecast, the European criminologists are disposed to think of the unimprovability of offenders as a fatalistic matter—a destiny determined principally by heredity. American criminologists, on the other hand, are less disposed to identify unimprovability with biological destiny. They are more willing to believe that a poor prognosis represents a loading of personality and milieu factors that have mainly generated in the postnatal life history of the person.

Prediction of Outcome

Functionally, it is doubtful whether prognosis should be separated from prediction. Both aim at forecasting of outcome. Historically, however, prognosis has been a clinical procedure—a more or less objective or qualitative judgment of outcome of individual cases as based on wide knowledge of the general run of cases, while prediction has been a mathematical or statistical procedure, such as the prediction of an eclipse, of rain, of life expectancy, of population increase. The studies mentioned in the previous section have been based mainly on qualitative analysis of individual cases and hence conform to the historical usage of prognosis in clinical investigations. There have been several criminological studies that have attempted to forecast outcome by statistical prediction rather than by qualitative diagnosis.[2]

Out of a host of individual and social background traits and conditions of 1,000 juvenile delinquents in Boston whose outcome record was known, the Gluecks found that the following factors showed the highest relation to successful and unsuccessful outcome according to coefficients of contingency: discipline of the delinquent by the father (cases with sound discipline having a lower rate of recidivism than any other category

[1] See p. 387.

[2] Hawthorne constructed a test for the measurement of cruelty and compassion, which he presents as having valid predictive possibilities. He assumed that there is a general trait, no matter whether inherited or acquired, which disposes a person toward acts of cruelty, the degree of which can be measured on a scale. See Joseph W. Hawthorne, "A Group Test for the Measurement of Cruelty-Compassion: A Proposed Means of Recognizing Potential Criminality," *The Journal of Social Psychology*, Vol. 3, pp. 189–211, 1932.

of discipline by the father), discipline by the mother (sound discipline again with the lowest rate of relapse), school retardation (no retardation and advanced school grade for age having lower recidivist rates than categories of retardation in school grade), school misconduct (none having the lowest rate of recidivism of all the categories of misbehavior in school), age at first known behavior difficulty (cases between fifteen and sixteen rather than younger age levels having the lowest rate of repeated offenses), length of time intervening between onset of delinquency and examination by the child-guidance clinic (meaning that the less time cases were allowed to go their own way unassisted, the lower the recidivist rate).[1]

In their study of the relation of 500 Massachusetts Reformatory men the following factors bore the highest statistical relation (contingency) to favorable and unfavorable outcome during and after treatment, the item in parenthesis indicating the one of several subsumed categories within the general factor that showed the lowest percentage of failure: industrial habits preceding sentence to the reformatory (good habits), seriousness and frequency of prereformatory crime (nondelinquent prior to the offense causing sentence), arrests prior to the one leading to reformatory sentence (no arrests), penal experience prior to the reformatory incarceration (none), economic responsibility preceding sentence (responsible), observed mental abnormality on entrance to reformatory (none), frequency of violations of rules in the reformatory (no offenses, or only one offense in more than four months' stay), conduct during parole (success on parole), industrial habits following expiration of parole (good worker), family ties and relationship following expiration of parole (good), economic responsibility in postparole period (good), type of home in this period (favorable), use of leisure time during postparole period (constructive).[2]

By similar methods of statistical analysis the Gluecks from their study of 500 Massachusetts Reformatory women discovered the following, among other factors, most strongly related to favorable and unfavorable outcome, the most favorable category again being indicated in parentheses: retardation in school (none), neighborhood influences within a year of commitment (good), steadiness of employment before sentence (regular), economic responsibilities prior to commitment (met), observed mental abnormality on incarceration (none), type of worker in the reformatory (good), recreation and interests during parole (constructive), neighborhood influences during postparole period (good), economic responsibility during this period (self-support not necessary),

[1] GLUECK and GLUECK, *op. cit.*, pp. 186–187.

[2] GLUECK, SHELDON, and ELEANOR T. GLUECK, *Five Hundred Criminal Careers*, pp. 281–284, New York, 1930.

family relationships during the postparole period (successful), household stability during the period (no change of household).[1]

Burgess, who analyzed 3,000 male parole cases in Illinois for favorable and unfavorable factors as related to success or failure on parole, found the following among several favorable factors, meaning that the percentage of violation of men who fell into these categories was lower than the average for the whole group: type of offense (robbery, sex offense, murder, and manslaughter), criminal associates in crimes (three or more), marital status (married), type of offender (first and occasional), social type (farm boy and recent immigrant), living in a residential area, time served in prison before release on parole (under one year), no previous criminal record and a record of just fine and probation, regular work, no punishment record in the penal institution, under twenty-one when released on parole, favorable psychiatric prognosis on examination at incarceration.[2]

Monachesi, who studied the probation outcomes of 619 adult probationers of Ramsey County, Minn., found the following among several other favorable factors related to success on probation: education (none, first to fourth grade, finished college), occupation prior to probation (unskilled was the most unfavorable), regular employment before probation, married, living with husband or wife and with husband or wife and children, character traits reported (ambitious and honest), no liquor habits, normal rather than undesirable associates prior to probation, very infrequent use of poolrooms and "joints" before probation, associates in crime for which convicted (two or more, very unfavorable), type of crime (burglary, desertion, forgery, very unfavorable).[3]

Robert Schiedt, using the Burgess method of factorizing to analyze 500 released prisoners from the Bavarian prison system (Germany), discovered that the classification of prisoners according to the following, among other categories, revealed the lowest percentages of relapse after release: hereditary taint (untouched), criminality in ancestors (not significant), home conditions (good), regularity of work (regular), number of previous sentences (relapse rate increases with number of previous sentences), psychiatric diagnosis (healthy, *i.e.*, nonpsychopathic), behavior in prison (good), age at release (thirty-six to fifty has a

[1] GLUECK, SHELDON, and ELEANOR T. GLUECK, *Five Hundred Delinquent Women*, pp. 287–296, New York, 1934.

[2] BURGESS, E. W., "Factors Determining Success or Failure on Parole," in ANDREW A. BRUCE, *et al.*, *The Workings of the Indeterminate-Sentence Law and the Parole System in Illinois*, pp. 221–234, Springfield, Ill., 1928.

[3] MONACHESI, ELIO D., *Prediction Factors in Probation*, pp. 50–62, Hanover, N. H., 1932. Monachesi also analyzes the favorable and unfavorable factors related to successful and unsuccessful outcomes of 836 Ramsey Company juvenile probationers, pp. 24–49.

lower recidivist rate than up to thirty-five; more than fifty, a still lower rate), social conditions after release (good), age at first punishment (over thirty lowest, and under eighteen highest recidivist rate).[1]

The results of these predictive studies[2] must be taken tentatively, since more studies of this nature will have to be made before authoritative statements on the components of favorable and unfavorable traits and conditions can be cited. However, the attempts so far to isolate favorable and unfavorable factors conducive to successful and unsuccessful outcome have certainly demonstrated the importance and feasibility of using predictive measures of prognosis by court, institutional, clinical, probation, and parole authorities, whose job it is to handle offenders in the most adequate and effective way.

As a matter of fact, each one of the predictive studies mentioned above has developed a method of scoring the important factors in cases so as to compute the categorical risk of a man's making a success or a failure during parole or probation and after release from supervision. This computation of an offender's categorical risk of making good is in reality a form of sociometric or sociological actuarial work, comparable in fundamentals to actuarial predictions of life insurance which assay the risk before issuing the policy. In one prison system in the United States, namely, Illinois, a sociologist-actuary has been employed now for the past few years to compute the risk of a man's chances of making good on parole before he is placed on parole. Four samples of this actuarial computation of parole risk, from twenty-seven factors according to the Burgess method, are given in Appendix H.

In the scoring of favorable and unfavorable factors, whether by simple count of the number of favorable factors (the Burgess method), the summation of percentage scores (the Glueck method),[3] or the weight-

[1] SCHIEDT, ROBERT, *Ein Beitrag zum Problem der Rückfallprognose*, dissertation at the University of Munich, 1936, reported in Franz Exner, "Über Rückfall-Prognosen," *Monatsschrift für Kriminalpsychologie und Strafrechtsreform*, Vol. 27, pp. 404–406, 1936.

[2] Because of space limitations I have not discussed the very important predictive findings of the following works: GEORGE B. VOLD, *Prediction Methods and Parole*, Minneapolis, 1931; CLARK TIBBITTS, "Success or Failure on Parole Can Be Predicted," *Journal of Criminal Law and Criminology*, Vol. 22, pp. 11–50, 1931–1932; CLARK TIBBITTS, "Reliability of Factors Used in Predicting Success or Failure on Parole," *ibid.*, pp. 844–853; FERRIS F. LAUNE, *Predicting Criminality*, Northwestern University, Evanston and Chicago, 1936; COURTLAND C. VAN VECHTEN, JR., *A Study of Success and Failure of One Thousand Delinquents Committed to A Boy's Republic*, Ph.D. thesis, 1935, University of Chicago Libraries (a study of factors related to outcomes of boys released from the Ford Republic, a delinquent boys' training school in Oakland County, Mich.).

[3] Glueck's method in the *Five Hundred Criminal Careers*, the Massachusetts Male Reformatory study.

ing of factors by the degree of the deviation from the average violation rate (the Monachesi method), the percentage of successful outcomes declined regularly from the most favorable to least favorable scores, while the percentage of unsuccessful outcomes increased regularly from most favorable to least favorable scores. Monachesi proved that the scorings of his cases by the Burgess method, the Glueck method, and his own method intercorrelated very highly, bearing testimony to the fact that the various scoring methods for computing class or categorical risk of favorable outcome were measuring the same thing to about the same degree.

Conclusion

From the best available follow-up studies of treatment the evidence points to the fact that very poor results have been obtained from institutional, court, probation, and parole handling of cases so far. Even the much-heralded efficacy of juvenile courts and child-guidance clinic methods show extremely disappointing results. It is not even known that the cases which showed successful outcomes were influenced toward successful readjustment by the treatment measures rather than through extraneous forces, while there is considerable evidence that the successful outcomes may result from the concatenation of favorable factors in the cases themselves. Based on clues obtained from prognostic and prediction studies, it seems clear that prior knowledge of an offender's chances or risk for making a successful adjustment would materially assist the necessary use of differential handling measures for individual cases who pass through courts, institutions, clinics, probation, and parole. Valid prognosis of cases is very likely to be of greater value to effective treatment of offenders than is the specific content of present-day rehabilitative programs.

CHAPTER XXI

A REVIEW OF CRIME-PREVENTION PROGRAMS

Preventive programs, whether in the field of crime, public health, unemployment, mental disease, or poverty, attempt to curb a problem at its source. The most enthusiastic supporters of preventive work sometimes set as their goal the ultimate elimination of a problem, its eradication or annihilation. The more realistic supporters of preventive effort do not allow their expectations to transcend further than an active concern in reducing the incidence of a problem.

Prevention versus Treatment

For purposes of study, prevention needs to be distinguished from treatment. The latter is a measure applied after the problem has arisen —*i.e.*, after unemployment has occurred, after the family has gone on relief, after the adult has become insane, after the juvenile or adult has become an offender. Treatment programs are curative, rehabilitative, or correctional, in point of reference and attack. They aim to arrest a condition so as to keep it from getting worse, or they aim to restore the individual to a normal condition of living or at least to a condition that is not abnormal. In the field of criminology, specialized court programs, use of probation, commitment to institutions, release by parole, or any of the special readjustment facilities, such as clinics attached to or used by agencies and institutions handling offenders, would ordinarily be considered as treatment programs. However, some of these crime-treating programs may also be conceived as being secondarily preventive. Juvenile courts and child-behavior clinics, servicing these courts, are represented to the public as preventive, as well as rehabilitative, agencies, the idea being that properly implemented juvenile courts should prevent juvenile offenders from becoming adult criminals.

Likewise, some of the crime-prevention programs, conceived as being primarily preventive, are also used as implementing the treatment and readjustment of cases. For example, specially supervised leisure-time activity programs may function both as preventive and corrective. Child-guidance clinics usually operate in this dual capacity. Special children's institutions may perform both functions.

The difference between the prevention and treatment of crime strikes deeper than a superficial distinction between the time of application—

whether before or after the fact. At present, crime prevention is likely to be more diffuse and scattered at the source of application and more intangible and immeasurable at the point of outcome than are treatment measures. The application of commitment, probation, parole, or of any special restorative or rehabilitative efforts is visibly concentrated on offending individuals. While penal methods of handling are still largely measures of mass handling and are fraught with severe limitations, still mass methods of handling offenders are specific applications of treatment. The point of application is, therefore, highly visible and confined. Even with a greater development of individualized treatment programs, the point of application is the case. This is still more intensive application. No matter whether it be mass or individual handling, the results of the handling can be checked, and the results of the treatment are fairly tangible and measurable. Within the limits of court, agency, and institutional records, it can be discovered whether an offender has relapsed. Thus the rate of recidivism offers a potentially visible indicator of the outcome of treatment.

It is difficult to decipher tangible results of crime-preventive programs as they are now set up. The point of application is too diffuse at present. It is not definitely known what persons would have been offenders if it had not been for the preventive work. Changes in the volume of crime can be due to too many variables not connected at all with the measures applied and, consequently, the general crime rate cannot readily be used as an index of results. While the recidivist rate as an indicator of the outcome of treatment may be affected by changes in society and social policy not directly geared to the application of treatment, yet it is objectively possible to isolate the outcome of cases subjected to a course of treatment; for it can be discovered what group of cases was originally subjected to what treatment.

Ideally, of course, crime prevention would be of greater importance to society than treatment of crime, if the proper gearing of program and the proper recipe of application could be found. Until such time as these conditions can be met, rehabilitative and restorative measures will continue to hold the more practical and empirical vantage point over prevention.

While much still needs to be done to establish operationally effective treatment programs to rehabilitate offenders, methods of treatment or handling violators, in spite of not being pitched on a reformative or regenerative basis, before the nineteenth century are much more ancient than are methods of preventing crime. In fact, the very concept of prevention is a modern one. It might even be said that the idea of crime prevention is a late nineteenth-century and twentieth-century conception. Preventive work in several other fields of social problems is likewise a

fairly recent conception and innovation. At best, present-day crime prevention is in its infancy and in a very nebulous stage. It is merely a bundle of possibilities, with specific demonstrations as to operational effectiveness and ineffectiveness yet to be made.

Henderson's Proposals for Crime Prevention

As a convenient point of reference for the study of conceptions, principles, and programs of crime prevention the blueprint of a presumably comprehensive crime-prevention scheme, drawn by one of the best informed social scientists and most enlightened welfare workers of the early twentieth century, is selected. The blueprint was prepared by Charles R. Henderson for the eighth international prison congress in 1910. A summary outline of Henderson's formulation of crime-preventive measures is given as follows:

1. Elimination of the unfit by
   - *a.* Segregation in custodial colonies.
   - *b.* Progressive sentences for recidivists and isolation for life of the incorrigible class of offenders.
   - *c.* Prohibition of marriage of the degenerate class.
   - *d.* Asexualization to prevent procreation (sterilization).
   - *e.* Regulation of immigration to eliminate the unfit.
2. Improvement of physical conditions
   - *a.* Improve dwellings of the poor.
   - *b.* Improve neighborhood surroundings, such as streets, alleys, unsanitary living conditions, indecent exposures, saloons, etc.
   - *c.* Factory laws, preventing sweatshops and protecting health and morals of workers, especially women and children.
   - *d.* Eliminate premature exploitation of children in industry by legislation.
   - *e.* Eliminate exploitation of women in industry.
   - *f.* Improvement of general physical and health conditions by boards of health, visiting nurses, etc.
3. Economic measures for diminishing crime
   - *a.* Reduce strain of struggle for existence by alleviation of charitable organizations.
   - *b.* Encourage growth of labor unions and organizations of self-help.
   - *c.* Organize consumers' leagues.
   - *d.* Minimum wage laws to guarantee a living wage.
   - *e.* Legal measures securing income during unemployment.
   - *f.* Publicity to prevent corruption in business and government.
   - *g.* Control of public services by Federal and state commissions to prevent abuses.
4. Prevention of prostitution, alcoholism, and drug habits (since these lead to or are associated with crime), by legal and educational measures.

5. Direct measures
   - *a.* Bureau of registration and identification.
   - *b.* Police functioning as agents of social betterment.
   - *c.* Social treatment of vagabonds and inebriates by breadlines, missions, and municipal lodginghouses, etc.
   - *d.* Aid to prisoners and their families.
   - *e.* Use of probation and parole.
6. Law, courts, and government
   - *a.* Improvements in judicial administration.
   - *b.* Legal adjustment of industrial disputes by boards of arbitration.
   - *c.* Employer's liability and workmen's compensation laws.
   - *d.* Reforms in municipal courts.
   - *e.* Legal protection of immigrants and legal aid societies.
   - *f.* Better enforcement of law.
   - *g.* Elimination of political corruption.
7. Educational methods of preventing crime
   - *a.* Examination and diagnosis of children so as to care for mentally and physically defective.
   - *b.* Physical training.
   - *c.* Better play space and facilities for children.
   - *d.* Vocation schools and summer camps.
   - *e.* Education in physiology and sex hygiene.
8. Agencies of recreation, sociability, culture, and religion in the prevention of crime
   - *a.* Social settlements.
   - *b.* Boys' and girls' clubs.
   - *c.* Censorship of theaters, moving pictures, and related entertainments.
   - *d.* Municipal provision for entertainment and recreation for the masses.
   - *e.* Municipal playgrounds.
   - *f.* "Institutional" churches (serving as social centers) such as parish houses, Y. M. C. A., Catholic and Jewish associations.[1]

Henderson's formulation of preventive measures gathered together the extant proposals and conceptions of prevention at the time. Some of them were somewhat in advance of the times, but all the measures represent coverage on what was, and still is largely, conceived to be the critical points of the problem of crime from a public-welfare standpoint. His formulation of crime-prevention measures in reality proposed a "new deal" for the masses, many of whom were supposed to fall into crime because of bad living and working conditions and the lack of facilities and opportunities for wholesome development.

While some of his proposals might be criticized as being too far-fetched or as being rehabilitative rather than preventive, most of them are in line with the popular vogue of preventive efforts today. There are probably

[1] HENDERSON, CHARLES R. (ed.), *Preventive Agencies and Methods*, pp. 46, 72–121, 123–183, 184–234, 235–260, 261–315, 323–353, 357–516, New York, 1910.

very few modern crime-preventive proposals or experiments that are not fundamentally covered by Henderson's blueprint.

Methods of Crime Prevention

Quite visible in Henderson's proposals is the reliance on the use of social legislation to curb the problem of crime. Legislation as a method or procedure to be used in prevention is expressed or implied in proposals 1, 2, 4, part of 5, and parts of 6.

Besides the legislative method of instituting preventive measures, Henderson's proposals included another basic method, *viz.*, of special organizations to stabilize the behavior of individuals in a complex, mobile environment in which family and neighborhood controls over conduct had materially been weakened. Witness several of his proposals listed under 3, 5, 7, and 8, specifically listed as alleviating the poor by charitable organizations, trade unions, and organizations of self-help, organization of consumers' leagues, aid to prisoners and their families, social treatment of vagabonds and inebriates, better play facilities for children, vacation schools and camps, social settlements, boys' clubs, municipal provision for entertainment and recreation, municipal playgrounds, and institutional churches. A third method of prevention included in Henderson's proposals is the educational method, which is included in 4 (in the prevention of vices associated with crime), and in part of 7 (education in physiology and sex hygiene, physical training, and work with mentally and physically defective children). The clinical-examination method of the medical sciences is applied in most of the parts of 1 and 4, and in the *a* part of 7.

It is impossible to assume that the four methods of prevention that can be found in Henderson's program of prevention exhaust the basic methods of procedure or attack. They suggest certain types of procedure rather than represent an exhaustive list of specific methods. Perhaps the more obvious way to analyze preventive programs is not by method of application but by the point of application,using any or all methods. Henderson proposed to do something about the mentally defective and unfit, to eliminate these persons from the social scene by custodial care, life imprisonment, sterilization, control of entrance requirements into a country, and prohibition of marriage. He proposed to improve unwholesome physical and moral conditions of the environment. He proposed measures calculated to give greater economic security and stability to the working classes. He proposed to control the vices associated with demoralization and crime. He proposed to obtain better legal control over offenders. And he proposed to counteract the forces of personal disorganization and demoralization by educational and leisure-time activity programs.

In making these proposals, Henderson attempted to cover the sources of crime conceived to arise from mental defectiveness, living conditions, poverty and insecurity, vices, inadequate legal control of crime, and lack of opportunities for education and recreation. His proposals are open to question as to whether he has posited them on the most important causes of crime. With the nebulous state of knowledge about causation of crime in his day and even today, one can hardly say whether he was justified in singling out mainsprings of crime to be stopped or whether he posited his program of prevention on the most critical and important sources of criminal behavior. The assumption that the mainsprings of crime are to be found somewhere or somehow in mental unfitness, poor living conditions, economic insecurity, vice, lax or inadequate legal control of crime, and lack of proper educational and leisure-time facilities can easily be challenged. Some authorities on criminal causation might say that mental defects and disorders are a very small causative factor, that the vices are a still smaller provocative factor of crime, that poverty and insecurity are seldom a direct or important cause of crime, that lax legal measures of handling crime are a negligible cause of crime (except possibly in the instance of a small group of professional criminals), that unwholesome living conditions are a dubiously important cause of crime (although they may be a culture for the growth of delinquent and criminal behavior), and that the lack of educational and leisure-time facilities at best might be a minor, negative sort of causative factor.

The question might be raised: Are we prepared to attack the problem of crime prevention in view of the uncertain and confused present state of knowledge about the direct and indirect causes of crime? The answer must be that we are poorly prepared, from our knowledge, to attack the genesis of crime at its most critical and vital sources. The best that can be done is to attempt preventive coverage at spots that are suspiciously active in the production of crime. On the other hand, while knowledge of causation can act as a guidepost to the application of measures at the most advantageous points, yet properly conducted preventive experiments can proceed on a problem before and without exact and certain knowledge of causation of any problem—in this case, of crime.

Fielding's Conception of Crime Prevention

One hundred and sixty years earlier than Henderson's synthetic formulation of crime-prevention measures, the sagacious English magistrate and novelist, Henry Fielding, proposed certain measures to allay the increase of thieves and robbers in England. Remember that there were no modern police, no scientific criminal identification, and that streets and highways then were unsafe. Fielding's proposals were as follows: (1) stop advertising in newspapers for return of stolen goods (he

would make this criminal), (2) regulate or extirpate brokers and pawnbrokers, (3) make receiving of stolen goods an original crime in which the thief can testify against the receiver, (4) make the "bare buying" or "taking to pawn" of stolen goods evidence of receiving.[1]

Even in Henderson's day, as well as at present, Fielding's proposals would appear to be a mere scratch on the surface of prevention. They merely touch one phase of one phase of crime, *viz.*, the disposal of stolen property by thieves and robbers. What Fielding's proposals amounted to was a suggestion to curb stealing and robbing by suppressing the outlets (the fences) for stolen goods and property. His method by inference was a legislative method, requiring law enforcement. In English-speaking countries at least, the legislative method of reducing an evil has never proved effective, because means were always found to surmount laws that were never effectively enforced. Nevertheless, the legislative method of prevention, *i.e.*, curbing a problem through law, constitutes one of Henderson's main preventive procedures. Henderson's proposals of preventive measures, on the other hand, attempt to cover the deeper sources of crime, getting at basic mental, economic, and social conditions of the masses. Such proposals as Henderson's had to wait until instrumental leaders of society became public welfare conscious, following a long cumulative social-reform movement; they had, as well, to await the development of biological and social sciences of the nineteenth and twentieth centuries. The measures and the coverage that Henderson synthesized would not have arisen in an age prior to the development of social-betterment movements and modern biological and social sciences, and were therefore beyond the ken of even the most sagacious civic-minded person of an earlier age.

Ferri's Plan of Prevention

Of the late nineteenth-century and early twentieth-century criminologists, most of whom were barren of preventive suggestions, Ferri, who anticipated Henderson by twenty years, is undoubtedly the most fertile. Ferri seriously doubted the effectiveness of punitive measures as a means of suppressing crime and insisted that indirect "penal substitutes," *i.e.*, preventive efforts, were infinitely more potent in curbing crime that were punitive methods of suppression. But Ferri did not assume that prevention could eliminate crime. He merely indicated that it could reduce the problem to a minimum volume. "The aim of penal substitutes is not to render all crimes and offenses impossible, but only to reduce them to the

[1] Henry, Fielding, *An Enquiry into the Causes of the Late Increase of Robbers, etc.*, pp. 74–75, London, 1751. Consulted in the original at the University of Texas Libraries.

least possible number in any particular physical and social environment."[1] As in Henderson's case, Ferri's ideas of prevention were likewise predicated on the sources of crime. "Social prevention begins with the original sources of crime, attacking its biological, physical, and social factors, by methods which are wholly indirect, and which rest upon the free play of psychological and sociological laws."[2] Ferri's ideas of prevention were considered so fruitful that the great Lombroso took them over in his more comprehensive later works.[3]

Ferri suggested that preventive measures could be applied to five spheres of activity, from which illustrative examples will be drawn.

1. *In the Economic Sphere.*—He claimed that free trade eliminates freebooting; free emigration gives an outlet to people, driven to crime by lack of opportunities; equable taxation does away with fraud and evasions; and curbing alcoholic indulgence eliminates many associated crimes. As means of reducing and preventing crime, he also advocated inspection of places of work; shorter hours; workmen's dwellings (better housing); alleviation of overcrowded living conditions; insurance for aged, sick, and injured; charity relief for the destitute; and agricultural colonies for vagrants.

2. *In the Political Sphere.*—Political crimes of members of oppressed minority groups would be eliminated by gearing governments to the hopes and wishes of minority groups. Freedom of the press eliminates the crimes of provocation. Respect for law is far more effective than police and prisons. Electoral and parliamentary reforms will reduce crimes incidental to electoral and governmental abuses. Government adapted to localities and local conditions of a country should prevent many violations of law.

3. *In the Scientific Sphere.*—Scientific developments, which at first implement crime, finally act as an antidote to crime. Dissection and toxicology have made poisoning rare. Contraception reduces infanticides and abortions. Checks (as a medium of exchange) remove the temptation of theft.

4. *In the Legislative and Administrative Sphere.*—Wise testamentary laws eliminate greed murders by impatient beneficiaries. Laws facilitating parental consent to marriage will prevent concubinage, assault, infanticide, and abortion. Cheap and easy law likewise prevents many crimes against property, persons, and public order. Commercial laws

[1] FERRI, ENRICO, *Criminal Sociology*, p. 137, D. Appleton-Century Company, Inc., New York, 1896, evidently a translation of part of *Sociologie criminelle*, Paris, 1890.

[2] *Ibid.*, p. 139.

[3] LOMBROSO, CESARE, *Crime; Its Causes and Remedies*, translated by Henry P. Horton, pp. 244–330, Boston, 1918.

eliminate business frauds. The establishment of foundling houses, lying-in hospitals, and "home attendance" for young mothers might reduce infanticide and abortion. Prisoners' aid societies for the young especially, might curb crime.

5. *In the Sphere of Education.*—He advocated education by agencies of mass impression, the suppression of vulgar amusements, and the substitution of wholesome exercise and entertainment. He favored school training that prepares students to meet the struggle for existence. Restriction of scandalous publications would also reduce crime, as well as restrictions on the right to attend courts and assizes—sources from which crime is picked up.[1]

Quite noticeably, Ferri was impressed with the futility of penal methods and the possibility of penal substitutes (prevention). All through his discussion he continously emphasized the point that such and such an indirect (preventive) measure can, might, or will reduce such and such form of crime, which has remained unchecked by the severest punishment.

Quite obvious also is the fact that Ferri relied solely on the legislative method of prevention. All his preventive measures were to be instituted by laws, and the lawmakers merely had to bear in mind the myriad sources of criminality to get a law to cover each source. There is a grain of validity in the legislative approach, but certainly not enough on which to base an effective preventive program. The germ of validity exists in the fact that, under certain conditions, changing the current definitions of illegal behavior eliminates special petty crimes and in the fact that legislative action might be required to initiate or establish a certain program. But law in and of itself cannot make specially instituted preventive services operationally effective.

Ferri relied solely on one method of attack, whereas Henderson's program incorporated several methods. While both programs attempt to curb crime at the source, Henderson's plans appear to tap a few large sources, whereas Ferri would branch out far and wide. This is due undoubtedly to Ferri's eclectic position on causality, since he considered almost every factor or condition under the sun (and including it) as a causative factor. Interestingly enough, there are many specific suggestions that are fairly identical in both programs. However, Ferri in his work merely throws out the suggestion, whereas Henderson in his volume indicates details as to the ways and means of actually instituting and operating the special program. Ferri did not propose a eugenic approach, while one of Henderson's mainstays in his total program is the elimination of the unfit by sterilization, eugenic marriages, and custodial care. Both programs reflect the state of knowledge and the state of

[1] FERRI, *op. cit.*, pp. 114–132.

conditions and developments in their respective countries of origin. Henderson had the advantage of being familiar with the great variety of American welfare agencies and experiments, which were largely unknown to Ferri's Europe of the 1890's. Henderson, therefore, knew better how to fit a specific preventive proposal to a specific situation than did Ferri.

Aschaffenburg on Prevention

The ideas on prevention by another outstanding European criminologist of Ferri and Henderson's day are worthy of note in tracing the advances toward modern crime-preventive conceptions and principles. Gustav Aschaffenburg contended that we should attack the problem of crime prevention as public-health medicine attacks the problem of disease, *i.e.*, by eliminating the causes. He objected to Ferri's idea of penal substitutes. Preventive measures, according to Aschaffenburg, should not take the place of penalties; they should make them unnecessary. They should constitute a form of social hygiene. In regard to particular preventive measures he suggested the following measures: to curb the sale, distribution, and use of alcohol; to relieve the wretchedness of the lower classes by eliminating overcrowded housing and by educating the masses to appreciate the value of family life and intellectual pleasures; to care for the sick and incurable; to regulate aid to the poor; to establish unemployment offices; to increase the use of social insurance against sickness, accidents, and unemployment; to foster compulsory savings accounts; to curb illegitimate births, in order to prevent the demoralization of children; to prevent the demoralization of children of the lower classes by education and training programs provided by the state for neglected children and by educational institutions of churches and private organizations; to care for released prisoners, especially in obtaining work for them; to develop adequate policing and energetic prosecution along with a strengthening of public feeling for strict law observance and the abandonment of publicity of crimes and trials in the press.[1]

Most authorities would agree with Aschaffenburg's idea that crime prevention should be a form of social hygiene. The main criticism to be lodged against his specific suggestions is simply this: they do not afford adequate coverage. They represent, with the exception of the last suggestion on law enforcement, alleviations of social conditions assumed to be related to crime—such as alcoholism, economic insecurity, bad housing, illegitimacy, child neglect. As we shall discover later on, alleviation of these conditions apparently has only a small preventive potential, because they are so infrequently the direct determiners of conduct.

[1] Aschaffenburg, Gustav, *Crime and Its Repression*, translated by Adalbert Albrecht, pp. 227–241, Boston, 1913.

Status of Crime Prevention in Pre-Nazi Austria

The provisions for crime prevention in Austria prior to the *Anschluss*, according to Lukas (see Appendix I), were mainly concerned with efforts to protect youth from neglect and demoralization. The principal measures, as indicated by Lukas, included public boards and private agencies for the welfare of youth which attempt stabilization through educational, leisure-time, and relief programs; protective guardianship over neglected and delinquent children, both illegitimate and legitimate; the organization of the juvenile court to emphasize proper rearing and education of children; improvement of housing congestion; and special protective legislation aimed at the reduction of moral hazards confronting youth in community life.

Dr. Lukas suggested that a crime-prevention program eventually means increased interference of the government in the lives and care of children. In the postwar period of Austria, many of the protective measures for children had to be assumed by the government, although some private-agency effort continued. She contended that preventive programs must strike at the causes of delinquency and, in so doing, constitute a form of social and medical hygiene.

Theoretically, the conception that preventive effort should strike at causes and should concentrate on the protection of youth is sound and would receive the support of experts in the field; but practically, grave questions as to the effectiveness and adequacy of the various mentioned preventive measures can be raised. No matter how worth while from a moral point of view, the attempt to suppress moral hazards of young people can have but a very small effect in the reduction of delinquency. Likewise, the attempt to relieve housing congestion, no matter how desirable from a hygienic and moral standpoint, can have at best only a limited influence on the total sources of demoralization of youth. The educational, leisure-time, and relief activities of youth-welfare organizations have greater possibilities for stabilizing children than have the protective laws and the improved housing conditions. But their effectiveness depends on adequate coverage on the children who need reaching the most and on good carry-over value, which are very difficult to achieve. It is doubtful that the coverage of youth-aid organizations and the educational program of the juvenile court were extensive enough in Austria, as elsewhere, to have much visible effect on the reduction of delinquency. But these limitations do not mean that preventive effort at the child-welfare level is not in the right direction, since admittedly it is.

Compared with the Henderson blueprint, the crime-prevention program in Austria, as described by Lukas, was restricted to a few child-welfare measures. If any country or community is unable to procede

with a broad attack on the problem of crime and delinquency from many angles, the concentration of effort on measures to protect children against demoralization is highly justifiable. While the conclusion is that the Austrian provisions for prevention of delinquency and crime had very limited coverage at the source, they were clearly in line with the actual status of crime-prevention efforts in most modern countries, which emphasize the protection of children as a means of curbing crime.

It will be impossible to review all the devious proposals for effective crime prevention and all the various specific programs that are now in operation and that aim to prevent crime. Only some of the more important proposals and experiments will be analyzed, with the view toward appraising briefly their operational effectiveness or ineffectiveness.

Custodial Care

Segregation of the mentally and constitutionally inferior individuals has been advocated as a means of checking crime. This involves the removal of the feeble-minded, the insane, the psychopathic, the inebriate, and incorrigible types of persons from the ordinary social scene and their placement in institutions where they cannot be a menace to society or to themselves. In the modern welfare era of society, special institutions have arisen to house some of these types; but only partial institutional coverage, a very small coverage at that, has so far been made for these types of persons, who are challenges to ordinary living.

In the case of the feeble-minded, just a small proportion of the lowest grade feeble-minded types are covered by custodial care of institutions. But, how important is custodial care of the feeble-minded for prevention of crime? At best, it can be of only small importance, since the percentage of feeble-minded delinquents and criminals is not disproportionately high, since feeble-mindedness is not a prevalent cause of crime, since only a few of the higher grade feeble-minded types become offenders, and since feeble-minded offenders can get into difficulty for reasons not connected with their mental status. The very lowest grades of idiots and imbeciles, who compose a high proportion of the custodial cases and are usually lifted from the social scene early in life, have not enough intelligence to command a range of activity that would get them into conflict with the law. Of the higher grade feeble-minded types, the morons, the problem is to single out those who are risks for delinquency and crime and to get them singled out early enough to prevent serious delinquency. But how to do this is the crux of the matter. Who are the higher grade feeble-minded types that would become delinquent unless special care is taken of them? This is not known with any degree of certainty. The suspicion is that those young, mentally below-par persons who are living in situations too complex for them without adequate family supervision

are the greatest risks for delinquency. Custodial care in the form of farm or industrial colonies, with an adequate work, leisure-time, educational, and parole placement program has been recommended and in a few instances has been tried. Custodial care of adult feeble-minded offenders who become delinquent later in life and who are not spotted earlier in life is advocated, not merely as a treatment procedure but also as a preventive one. In this instance, the custodial care is presumed to prevent procreation of kind or the inadequate rearing of children, although some of them might be normal. Even if custodial care of adult feeble-minded offenders really did just this, only an infinitesimally small number of criminal risks would be counteracted.

In regard to the insane, it is known that only a very small proportion of the criminal population is insane, probably not much higher than the noncriminal population, and that most of the insane do not commit crimes, although some of them need close supervision. Special facilities and institutions have been developed in several states and countries for housing the criminal insane. But this is treatment and not prevention. The question is not how to prevent an insane offender from committing further crimes but how to prevent the insane from becoming criminals. This, of course, is a problem of adult risk, since rarely does a child become insane. Preventing the insane from becoming criminal would require medical and custodial coverage on persons at the onset of mental disorder—a most difficult but not impossible task. Such a procedure would have to spot law-abiding persons, as well as individuals already criminal, in incipient stages of mental disorder.

To be still more refined in preventive procedure, the incipient insane who are great risks for law violation could be segregated. This would require much research, in order to decipher what types of psychotic persons are prone to criminal behavior. Consequently, custodial care of the noncriminal insane and the criminal insane, as it is practiced today, can have very little preventive potential, for reasons already discussed.

To what extent custodial or other expert care can be exercised over psychopathic individuals is at present uncertain. In fact, definite knowledge of what constitutes psychopathic personality and the bearing psychopathic personality has on crime is not available. Psychiatrists who have studied criminal court cases or inmates in penal institutions vary widely in their estimates of who are the psychopathic offenders and of the proportion of psychopathic to nonpsychopathic offenders. It is recognized that many criminals, vagabonds, addicts, and derelicts are psychopathic and are what they are because of their psychopathic tendencies or behavior. It is recognized that psychopathic individuals have great difficulty in making adjustments to ordinary conditions of

living and that they are emotionally unstable, eccentric, egocentric, inadequate to demands placed on them, and excessively restless. It is recognized that they are not insane but are merely difficult problem individuals in social relations and life adjustments.

The crux of the problem is in spotting psychopathic personalities. How can they be told from so-called normal persons who have many of the same traits, although not so extreme and visible? Is there any way to decipher who is a psychopathic person before he becomes a vagabond, a wastrel, an alcoholic, a criminal? Can it be that the only way a psychopathic person can be spotted is after he has become demoralized or has been an official problem? Finally, is there any way to tell in advance who might become a psychopathic offender of law from those who become noncriminal psychopathics? In other words, who are the risks for becoming psychopathic later in life, and of these who are the risks for becoming psychopathic criminals? These are questions modern medical and psychological sciences cannot answer so far, and yet they need to be answered in order to do preventive work.

As matters stand today, a few psychopathic offenders, detected in the courts or penal institutions that have psychiatric service (and these are very rare indeed), are held for special handling. The overwhelming majority of psychopathic offenders slide through life and penal experience without any special handling. Society does not have the facilities to cover them. It is not known whether psychopaths can be handled better in special institutions or in the open under supervision.

Even if greater coverage could be obtained on psychopathic offenders as they are spotted, the best that could be done with them would be to prevent further criminality on their part. But this, although highly important, is merely treatment; it is not prevention, since it does not check other psychopathic persons from becoming criminal.

Many authorities advocate the effort to reach in the early ages of life, through mental-hygiene programs in school or through child-guidance clinics, persons who would become psychopathic offenders. Such a procedure can be recommended theoretically, since it gets nearer to the source of the problem. But in order to do much effective prevention, wide coverage would have to be obtained on all visibly difficult children, and their cases would have to be specially handled and followed through until a safe point of release. Since individualized adjustment programs are so very expensive and seem to be most effective when intensified and closely supervised by expert personnel, it is safe to assume that complete individual coverage on difficult children is almost an economic impossibility. However, modern society is already making a few very costly efforts to reach and readjust problem children; but the coverage so far is only a drop in the bucket.

Protective Detention of Habitual Offenders

Many states and countries have made provisions for the protective detention of habitual offenders, some of whom may now be imprisoned for life or for lengthy periods. The so-called "Baumes Law," covering habitual felons, became effective in New York State, July 1, 1926. The most notorious one of several laws passed at the time to protect society from the ravages of habitual offenders made life imprisonment mandatory for adult criminals convicted of a fourth felony. Actually, the law specifying life imprisonment for fourth-felony convictions had been on the statute books of New York State since 1907, but in 1926 the loopholes in the old act were eliminated so as to make it operative.[1] After great ado over the passage of the Baumes Law, only 199 cases had been handled under the provisions of life sentence for the fourth felony from 1926 to 1931.[2] According to a survey by the New York Crime Commission, 16 states in the United States (*c.*1930) had fourth-; 22, third-; 20, second-offender acts.[3]

As early as 1908, England instituted a "Prevention of Crimes Act" which enabled the authorities to detain a habitual criminal from five to ten years, following the expiration of his imposed sentence. But this measure of protective detention was very little used, since judges were reluctant to pass on such cases. Craven contended that only thirty cases had been handled under the provisions of the act twenty years after its inception.[4] In 1927 Sweden enacted a "Habitual Criminals Act," along with an "Abnormal Delinquents Act." According to the former, "the accused must have undergone hard labor for at least ten years, distributed among at least four separate sentences" and "he must have been guilty of an offense punishable by hard labor for at least two years," while serving his last sentence or within five years of his last sentence. The usual minimum term of detention is ten years, although the term is not fixed. If the habitual offender is conditionally released, he must be placed under supervision for at least ten years. In other words, the Habitual Criminals Act of Sweden attempts to cover mentally normal but incorrigible and dangerous offenders. The Abnormal Delinquents Act covers persons of "impaired imputability," such as mentally abnormal and defective individuals, epileptics, and psychopaths, who are dangerous to

[1] Johnsen, Julia E., *The Baumes Law*, The Reference Shelf, Vol 6, no. 3, pp. 3–4, New York, 1929. See pp. 29–41 for bibliography on the Baumes Law.

[2] State of New York, *Report of the Crime Commission* 1931, p. 19, Albany, N. Y., 1932.

[3] *Ibid.*, pp. 19, 41–45.

[4] Craven, Cicely M., "The Progress of English Criminology," *Journal of Criminal Law and Criminology*, Vol. 24, pp. 241–242, 1933–1934.

life and property and are for most part incorrigible. An individual who is adjudicated to fit the specifications of this act is committed indefinitely. The convict may be detained for life if necessary; but no discharge can be effected in any case before the end of two years' internment. Release is usually conditional and supervision after release covers at least a three-year period and may be extended for another three-year period.[1] A Commission of Internment reviews the cases as a guarantee of the proper application of both acts in the courts. In the five years inclusive of 1928 through 1932, only 71 and 43 cases were sentenced in Sweden under the Abnormal Delinquents Act and Habitual Criminals Act respectively.[2]

A law covering special detention of abnormal and chronic criminals that has aroused great interest is one that was instituted in Belgium, April 9, 1930, and became operative January 1, 1931. It is known as the Law of Social Defense, and covers both recidivists and abnormal offenders.

Political offenses are excluded from coverage. Depending on the seriousness of present and past offenses, it is mandatory on the court to intern an offender for from five to twenty years after he has served his imposed sentence. The internment is intended not only for protection of society but also for rehabilitation. Those habitual offenders subjected to security internment have a right to apply for release at specified periods, every three years in the event internment did not exceed ten years, and every five years in the event internment was for twenty years. The appeal is heard by the Court of Appeals and, if release is granted, the inmate is released without any official supervision.

A mentally abnormal person who is charged with an offense punishable by at least three months of imprisonment and who is in a state of mental distress or debility, may be placed by the investigating judge or court under observation in a psychiatric annex of a prison for a month. After this preliminary psychiatric observation, the abnormal offender may be interned immediately in a special institution for a period of five to fifteen years, depending on the seriousness of the offense. If the mental condition of the abnormal offender improves greatly, so that he is no longer considered a menace to society, he may be released under surveillance for one year, and if this period of conditional release is successful, he is given his final discharge.[3]

[1] KINBERG, OLOF, "Criminal Policy in Sweden during the Last Fifty Years," *Journal of Criminal Law and Criminology*, Vol. 24, pp. 322–324, 1933–1934.

[2] *Ibid.*, p. 325.

[3] This statement merely touches the main outlines of the law. For further details on the law as well as certain operational facts about it consult the following: *Moniteur belge*, May 11, 1930; LÉON CORNIL, "La loi de défense sociale à l'égard des anormaux et des délinquants d'habitude du 9 Avril 1930," *Revue de droit pénal*, Vol. 10, pp. 837–879, 1019–1069, 1930; LOUIS VERVAECK, "Das Gesetz für sociale Abwehr im Hinblick auf die Rückfalligen," *Monatsschrift fur Kriminalpsychologie*

Theoretically, habitual-offender laws are sound as a policy of protection and as an extreme measure of treatment. Application of the measures would merely prevent further crimes from the incorrigible group detained or finally cured. It is obvious, of course, that such a procedure does not prevent other persons from becoming incorrigible offenders. Much medical, psychological, and sociological research will have to be done before we can know what constitutes a habitual offender. Is he a psychopathic type or is he an individual who has so matured or aged in crime that he cannot be regenerated?

Here, again, it would be much easier to devise a truly preventive program for habitual offenders if we knew in advance who are the individuals that constitute high risks for habitual crime. The detection of risks for chronic relapse into crime is not beyond the possibility of modern medical, psychological, and sociological science. As we have seen, American sociologists have already worked on methods to predict risk of prisoners on parole before they are placed on parole. The same actuarial methods can be applied to the study of adult habitual offenders.

STERILIZATION

Although crude methods of castration and asexualization have been used for special religious and social purposes in primitive and advanced societies, the advocacy of measures to prevent the procreation and multiplication of defective and constitutionally inadequate individuals is primarily modern and is linked to the development of welfare programs, the growth of modern biological sciences and eugenics (and their emphasis on the inheritance of physical and mental defects), and to the growth of modern surgery. The scientific distinction between crude asexualization and modern sterilization is made clear in the following statement:

> Sterilization should not be confused with castration or genitalectomy, although in the sterilization laws of some communities castration is still considered as a part of the program, while genitalectomy has everywhere disappeared. The term *sterilization* as used in all modern discussions of eugenics should apply only to the cutting of the *vas deferens* in the male and the tying off or cutting of the fallopian tubes in the female. We should probably concede that these measures involve no real cruelty since they are carried out under modern surgical conditions and with the standardized technique; furthermore, that these operations do not lower

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und Strafrechtsreform, Vol. 26 pp. 104–108, 1935; LOUIS VERVAECK, "Le premier bilan quinquennal de la loi de défense sociale à l'égard des anormaux," *Revue de droit pénal*, Vol. 16, pp. 633–648, 801–817, 1936; Karl Doerner's notations on the law of social defense in Belgium in the *Zeitschrift für die gesamte Strafrechtswissenschaft*, Vol. 51, pp. 404–414, 1931; BR. STEINWALLNER, "Fünfjähriger Bilanz des belgischen Gesellschaftsschutzgesetzes," *Monatsschrift für Kriminalpsychologie und Strafrechtsreform*, Vol. 28, p. 192, 1937.

or materially injure sexual power or sexual gratification, nor do they seem to involve a change of personality or a psychic mutilation in most instances. They are the simplest possible permanent devices for excluding the sperm from union with the egg in sexual intercourse.[1]

The claim is made that the movement for sterilization laws as eugenic measures traveled from Scotland to the United States to Switzerland and thereafter to the rest of continental Europe.[2]

The eugenic justification for sterilization was based on the popular belief that social, mental, and physical ailments were due to the workings of biological heredity. Many physical and mental defects, as well as behavior problems, were even thought to follow Mendelian laws of inheritance. Since the inception of modern sterilization, considerable revision has been made in the hereditary explanation of physical and mental traits of human beings.

After a thorough review of important researches bearing on the demonstrable genetic nature of mental diseases, feeble-mindedness, epilepsy, and crime, the American Neurological Association's special committee found that the evidence of hereditary causation was just barely sufficient to advocate selective sterilization in the following types of cases, "arranged roughly in the order in which sterilization would appear to be indicated":

1. Huntington's chorea, hereditary optic atrophy, familial cases of Friedreich's ataxia, and certain other disabling degenerative diseases recognized to be hereditary.
2. Feeble-mindedness of familial type.
3. Dementia praecox (Schizophrenia).
4. Manic-depressive psychosis.
5. Epilepsy (to some extent).[3]

This study excludes the following types of psychoses and feeble-mindedness from the category of hereditary causation: paresis, alcoholic psychoses, senile dementias, arteriosclerotic psychoses, psychoses accompanying pellagra, and other rare psychoses; cases of sporadic cretinism, Mongolian imbecility, organic brain diseases (due to brain injury at birth or infections before or after birth), syphilitic feeble-mindedness, microcephalus and hydrocephalus cases associated with feeble-mindedness, and

[1] MYERSON, ABRAHAM, *et al.*, *Eugenical Sterilization, A Reorientation of the Problem* the Committee of the American Neurological Association for the Investigation of Eugenical Sterilization, pp. 3–4, New York, 1936. By permission of The Macmillan Company, publishers.

[2] JAHRREISS, W., "Das Sterilisationsproblem," *Monatsschrift für Kriminalpsychologie und Strafrechtsreform*, Vol. 25, pp. 255–260, 1934, reviewing the material cited in Walter Kopp's *Gesetzliche Unfruchtbarmachung*, Kiel and Leipzig, 1934.

[3] MYERSON, *op. cit.*, p. 179.

amaurotic idiocy. As far as feeble-mindedness is concerned, heredity is indicated only in those cases where no pathology is discoverable. While the suspicion is strong that schizophrenia and manic-depressive psychoses are inherited, it is probable that even this contention will be considerably altered in future experimental researches.

Most important of all for present purposes is the conclusion, arrived at by the committee, that there is no clear indication that eugenic methods can eliminate criminal behavior and that social methods of crime control contain the greatest possibilities. The committee's finding on this point is quoted in the following statement:

> Most writers agree that while there may be a constitution which in its reaction to the milieu appears as criminal conduct, the effort to breed it out by any eugenical measures is, in the present state of our knowledge, not to be recommended, and that more fruitful approaches to crime are to be found in social measures of one type or another.[1]

The committee went still further in declaring itself opposed at present to the use of sterilization for the handling of antisocial behavior.

> Until and unless heredity can be shown to have an overwhelming importance in the causation of dangerous anti-social behavior, sterilization merely on the basis of conduct must continue to be regarded as a "cruel and unusual punishment."[2]

Consequently, the justification of sterilization today cannot be posited so surely on the mechanism of biological heredity as many enthusiastic supporters assume. As far as crime is concerned and the mental and physical defects or attributes associated with it, it is likewise impossible to advocate the use of sterilization as a preventive measure on grounds of heredity. And a new basis of justification must be found.

Independent of and apart from the role that heredity can or cannot be assumed to play in human problems, welfare workers are now advocating that it is wise and expedient to prevent defective and inadequate adults from siring or bearing offspring to whose rearing they cannot give proper attention and aid. On this basis, chronically pauperized adults of pauper backgrounds who have been extreme burdens on the state would be fit subjects for sterilization, to prevent the advent of a further crop of paupers. The causes in any case of adult pauperism might be traced to hereditary traits, to a family or community tradition of submarginal living, or to the operation of personally acquired habits or to any combination of all three. A feeble-minded delinquent girl might be considered a subject for sterilization, not because all her offspring would necessarily be feeble-minded and delinquent, but because she could not properly assume the care and supervision of the offspring. If the new

[1] *Ibid.*, p. 152.
[2] *Ibid.*, p. 178.

welfare justification of sterilization is valid, the crux of the problem of sterilization is to achieve the best coverage on the defective and inadequate individuals before they have had offspring, legitimate or illegitimate. How to detect them early enough and how to be empowered to operate on them are other very practical challenges to preventive work through sterilization. The state can assume the power to procede and place the discretionary use of sterilization in responsible hands, or laws can empower parents or guardians to grant permission where recommendation of sterilization has been made by competent agencies, or laws can empower individuals to grant permission for proper authorities to procede. The principle of compulsory sterilization, with adequate safeguards against abuse, has been upheld by the Supreme Court of the United States (1927).

According to information collected by the Human Betterment Foundation (as of 1937), more than 130,000,000 persons of modern countries are living under sterilization laws, including Sweden; Norway; Denmark; Finland; Esthonia; Germany, the free city of Danzig; the state of Vera Cruz, Mexico; the Canton of Vaud, Switzerland; the provinces of Alberta and British Columbia, Canada; and twenty-nine states of the United States.[1] For the states of the United States that have legalized eugenic sterilization, the laws whether compulsory or voluntary, are not being enforced to any visible extent, California being the principal exception.[2] In general, sterilization in actual practice has mainly been applied to a few selected cases of defective and psychotic individuals who have been placed under custodial care of state institutions.

Before 1937, California had made by far the greatest use of sterilization of all the states in the Union. Up to January 1, 1937, California's state institutions, empowered in 1909, had performed over 11,000 eugenic sterilizations. Virginia's institutions, empowered in 1924, had performed 2,634, ranking second in number of sterilizations reported by states in the United States. Kansas, whose empowering legislation dates from 1913, ranked third in the number of sterilizations performed, reporting 1,750. South Carolina, with enabling legislation dating from 1935, did not perform any operations of this character. Most of the 29 states with sterilization laws had used sterilization very sparingly. In fact, only 25,403 sterilizations had been reported from the total of 29 states since they had been empowered to perform the eugenic operations.[3]

A still more negligible use of sterilization is found in two of the most socially advanced countries in Europe. By May, 1933, four years after

[1] Human Betterment Foundation, Pasadena, Calif., "Human Sterilization Today," a pamphlet published by the Foundation in 1937.

[2] MYERSON, *op. cit.*, p. 20.

[3] Human Betterment Foundation, *op. cit.*, pp. 2, 8.

introduction of a sterilization law that requires voluntary application, Denmark reported only 103 operations. In the Canton of Waadt, Switzerland, with a population of 320,000, there were 25 females and 1 male operated on from January, 1929, to December, 1932.[1] In Denmark, the few cases who were committed for sex violations and who were sterilized were reported as showing satisfactory behavior and living contented, law-abiding existences.[2]

From California's experience the following facts are reported: "Of 304 feeble-minded girls sterilized and paroled, 9 out of every 12 had been sex offenders before commitment. After sterilization, only one out of every 12 became sex delinquent on parole (this, in answer to the question as to whether sterilization increases promiscuity). A study of marriages of 130 feeble-minded patients after sterilization and parole shows that two-thirds of them have been successful. This is as good as the record of all California marriages. Of the feeble-minded who have been paroled, about one-half have been sterilized. Of the persons admitted to state hospitals for the insane, one in six of the new admissions is sterilized before leaving. Selection of the patients for this operation is made after careful study by medical specialists, and usually with the written consent of the nearest relatives. Sterilizations in California have been about equally divided between men and women. Two-thirds of the number sterilized were committed as insane, the remainder as feeble-minded."[3]

If California's experience can be taken as representative of the most adequate present-day use of sterilization, the best that can be claimed for the program is that it reduces slightly the burden of state care of the insane and feeble-minded—a very laudable result, to be sure. This is accomplished by implementing parole from institutions of parolable cases that otherwise would not be released and by preventing these individuals from having offspring that might become state charges through inadequate rearing, if not through inheritance of feeble-mindedness and insanity. The coverage of the sterilization program as now set up is clearly not wide enough to have much more than an infinitesimally small and remote effect on prevention of criminal behavior or of crime. Consequently, apart from theoretical possibilities and the preconceived justification on the grounds of social expediency, the practical effect of the application of modern sterilization methods on crime is still to be demon-

[1] JAHRREISS, *op. cit.*, pp. 255–260.

[2] LUCAS, F., "Die Wirkungen des dänischen Sterilisations-Gesetzes," *Monatsschrift für Kriminalpsychologie und Strafrechtsreform*, Vol. 23, p. 183, 1932. Another report on the results of the use of sterilization in Denmark may be found in KNUD SAND, "Das dänische Sterilisationsgesetz vom 1. Juni 1929 und seine Resultate," *Monatsschrift für Kriminalpsychologie und Strafrechtsreform*, Vol. 23, pp. 49–83, 1932.

[3] Human Betterment Foundation, *op. cit.*, p. 5.

strated when much greater and perhaps earlier coverage can be obtained on a much wider assortment of unfit types and public charges than the insane and the feeble-minded.[1]

Renovations of the Social Order

Under this heading can be placed by far the largest number of programs that carry with them implications or advocated claims for prevention of crime. In fact, the majority of reform proposals that seek to remedy a particular social condition or set of conditions seem to touch upon crime sooner or later, as they are inflated by prior claims. Likewise, it is at the point of social renovation that civic-minded laymen develop special recipes for curing and preventing ills. Most of the recipes for curing and preventing crime are so farfetched and exaggerated that they do not warrant serious attention. Some of them are important enough to merit consideration, if only from the standpoint of correcting misapprehension. The stereotyped social portraits and landscapes that are painted of persons stealing for hunger and want, of girls entering prostitution because of poverty, of low wages and unemployment, of poverty-ridden slums producing wholesale crime and vice, are pretty much exaggerated. Instrumental persons who are impressed with the economic determination of crime or, more specifically, with poverty and unemployment as major causes of crime have advocated programs to reduce economic insecurity, as a means of preventing crime.[2] Support is even claimed for these proposals from studies of the relation of crime to poverty, business cycles (depressions), and unemployment. But the evidence, as we have shown, is not at all clear that poverty and unemployment have great bearing on crime, either as direct or indirect causative factors.

The point is that poverty and unemployment only in rare instances can be found to be causative factors when individual case studies are made. Moreover, the majority of individuals in impoverished families or of unemployed persons do not commit crimes. In other words, it seems to be a fact, which is not condoned by its mere statement, that most persons can live in poverty and unemployment without becoming criminals. In some instances, persons are criminal for the same reasons that

[1] See Kohlrausch, Eduard, "Sterilisation und Strafrecht," *Zeitschrift für die gesamte Strafrechtswissenschaft*, Vol. 52, pp. 383–404, 1932, for a discussion of the bearing of sterilization on the handling and control of criminals.

[2] Assuming that occupation gives stability and unemployment increases the risk of criminality, Brandstätter advocates the establishment of organizations to help the unemployed. He also advocates leisure-time organizations to take up the gap of shorter hours. See "Arbeitslosigkeit und Kriminalität," *Monatsschrift für Kriminalpsychologie und Strafrechtsreform*, Vol. 23, pp. 495–496, 1932.

they are unemployed or live in poverty, suggesting that certain personal inadequacies and maladjustments are at the bottom of their difficulties. The movements to guarantee better security of work and economic life should be undertaken for their own sake and not because they can reduce the amount of crime. In a social order that has met fairly well its problems of economic insecurity, crime will continue pretty much as usual, and the strong suspicion is that its volume, other things remaining constant, will be about the same.

Better housing and slum-clearance programs have also been advocated for and justified by crime prevention. It is true that delinquency and crime have found a nurturing culture in deteriorated and overcrowded slum areas of cities. But this is not because of any causal connection between deterioration or overcrowding and crime but rather because of the social disorganization and criminal culture that have invaded or persisted in these areas. Deteriorated housing areas may attract vicious and criminal elements as well as families incompetent to handle their members.

To make the case clearer, let us assume that a model housing or slum-clearance project has been erected in a deteriorated, crime-infested area of an American slum, as has been done in many instances. The individuals and families who formerly occupied the location are removed and a higher level of population usually enters upon tenancy of the new housing facilities, since people of this kind are the ones who are good risks for the project and can pay the rents. The older element scatters elsewhere. The new project may have a stabilizing and uplifting effect on the environs; but crime and delinquency are being produced elsewhere in the city.[1] Now let us suppose that new housing facilities could cover all the substandard and deteriorated housing areas of an American city and could somehow attract and house the lowest and most inadequate levels of the population. Would this complete coverage of the lowest income groups reduce crime? It might to a slight extent, but only insofar as the housing projects and all the supervisory and guidance service connected therewith could render the tenant families more adequate to control their own destinies and live better ordered lives, and could produce residential

[1] The author has had occasion to cooperate with one local slum-clearance project which has opened for occupation. He has made studies of the older occupation of the site and of the level of families in other substandard areas of the same city, with a view of discovering to what extent the occupants of such areas would be good risks for the new housing project. Very few persons in the old deteriorated site and in other deteriorated sections were found, who could afford the rents of the new housing facilities of the slum-clearance project. The author admits the value of better housing as a thing in itself but is unable to justify slum-clearance projects on the grounds of aiding the families who most need better housing and of preventing crime and delinquency.

stability and a neighborhood interest in and tradition for a well-ordered community life. But in order to do this, the rehabilitating and guidance service in connection with the privately or publicly managed model housing projects would have to be intensified beyond all ordinary ability of philanthropic support or reasonable taxation for support. In the absence of this highly developed supervisory service for families and individuals inadequate to make a go of life by themselves, there is no reason to assume that the mere availability of better housing facilities would prevent the individuals living in them from becoming delinquent and criminal. Here again, as in the case of social-security programs, better housing projects should be advocated and established for their immediate worth, *viz.*, for better housing, and not for dubious, uncertain, and farfetched influences, such as the prevention of crime, poverty, and unemployment.

An eminent authority on housing problems and programs, Edith Elmer Wood, puts the case in the following way:

> Granting that neither old plumbing nor broken plaster has a directly demoralizing effect on human behavior, there is none the less a very real sense in which bad housing is directly—one might almost say mechanically—a cause of juvenile delinquency. The sort of bad housing which produces this effect involves lack of play space indoors and out for small children. Restless and cramped at home, [the tenement-house child] finds his way to the street while he is little more than a baby. He is out of his mother's sight [hence to bad associates].[1]

This very temperate and moderate statement of the causal connection between bad housing and delinquency fails to take into account the fact that lack of parental supervision and bad companionship can cause delinquency in good housing as well as in bad and fails to explain or even call attention to the fact that the great majority of children in bad housing areas are not delinquent.

The same authority cites evidence from experiments in slum clearance of a few European cities.

> The consensus of opinion in England, Scotland, and the Netherlands would seem to be that when 100 per cent of those who live in a demolished slum area are rehoused in modern fashion on the site or elsewhere, about 10 per cent retain their old slum habits and appear incapable of improvement, while 90 per cent respond to the new environment, though of course in varying degree.
>
> Experience all tends to show that the destruction of substandard housing and the provision of modern homes for the displaced families, especially where there

[1] WOOD, EDITH ELMER, *Slums and Blighted Areas in the United States*, Federal Emergency Administration of Public Works, Housing Division Bulletin 1, pp. 9–10, Washington, D. C., 1935.

has been good management, results in a great improvement in health, in behavior, and in the standard of family life.[1]

While the evidence is admittedly that from opinion and observation, rather than from adequate research, no one seriously doubts that a well supervised slum-clearance program for slum dwellers has considerable merit in and of itself, that it has possibilities for improving health conditions, and that the former slum dwellers respond well to altered physical conditions of living. But one seriously doubts that delinquency and crime can be as easily counteracted by rehousing as are tuberculosis, diseases of filth, and infant mortality. If on examination, assuming no change in official policy toward delinquency and crime apprehension, an area of rehoused slum dwellers shows persistent reduction in volume of infractions, one would have some reason to suspect that the housing program had affected the scheme of life of families and individuals living in the area in ways more profound than those that readily, and perhaps superficially, produce improvements in sanitation and health.

Wood prophetically contends that "European experience justifies the belief that in a few years the death rates, sickness rates, and delinquency rates of a transplanted slum population would approach the city average."[2] Again it is necessary to discount the enthusiastic claims of this statement, as far as delinquency is concerned, since it is doubtful that management of slum-clearance projects has found the recipe for counteracting crime, delinquency, and demoralization in any thoroughgoing way. And if the recipe were found, the likelihood is that a formidable program of ordering people's lives, heavily supplementing the housing program, would have been called into play.

Many utopian programs for the complete renovation of the social order and its institutions have been proposed on a large, as well as on a small, scale with a view toward eliminating the present evils of society and the major social problems. Since the nineteenth century, drastic and vigorous programs have been proposed to revolutionize and completely renovate capitalistic society and its institutions.

Where communism, as an extension of the theory of socialism, is still in a fervent stage of agitation, the collectivization of the socioeconomic order is looked upon as a solution for most of the problems of society. The biggest revolutionary experiment with wholesale demolition of the capitalistic social order has been tried in Russia. The totalitarian states of Fascist Italy and Nazi Germany are likewise revolutionary experiments in strong centralized control of life and problems. It is beyond the compass of research at present to indicate just what the communistic and Fascistic experiments with a renovated social order have meant for

[1] *Ibid.*, pp. 114, 120.

[2] WOOD, EDITH ELMER, "The Cost of Bad Housing," *Annals of the American Academy of Political and Social Science*, Vol. 190, p. 150, March, 1937.

prevention of crime. In Russia, Germany, and Italy it is clear that several significant practical contributions are being made to methods of handling offenders, although these contributions seem to be local adaptations and extensions of the principles of nineteenth-century penology. And several important redefinitions of older crimes and definitions of crimes specifically important to the new order of things have been made. In all three countries, however, the problem of crime still exists as a challenge for prevention. While the problem of crime may have been considerably altered in character and volume, there is no indication that it has been practically eliminated. No matter in what direction the social order and institutions of a country or state may be changed, there is still the problem of individual and social adjustment of persons and groups to the order. Sociology and psychology do not possess the experimental knowledge to say at present to what sort of advanced social order individuals can adjust most successfully.

Bonger, the Dutch criminologist with socialistic leanings, presents the following formula for the prevention of crime: "To make prosperity and culture as general as possible is the best preventive against crime; prosperity, we said, not luxury."[1] More specifically, Bonger recommends the curtailing of materialism in society as a means of curbing covetousness and crimes associated with it. He feels that wholesome family life, care of neglected children, and good education for the masses will go a long way in preventing crime. The fundamental problem of modern society, as he sees it, is a question of how to make social development enhance the moral powers of man. He insists that it is highly probable that crime as a mass phenomenon should disappear as the social soil that nurtures the phenomenon disappears. However, as an individual occurrence, crime, he says, will always exist, since there will always be persons whose mental equipment prevents their adjusting to any social order.[2]

Bonger feels that the raising of the socioeconomic level of the underprivileged classes (the fourth estate) during the last half century has been a favorable factor in curbing crime.[3] Apart from the instrinsic merit of

[1] BONGER, W. A., *An Introduction to Criminology*, translated from the Dutch by Emil Van Loo, p. 154, London, 1936.

[2] *Ibid.*, pp. 154–155.

[3] Bonger claims that crime in the Netherlands decreased prior to the World War and, after an increase during the war, declined again. While this decrease is due partly to changes in penal policy, he believes that it is mainly due to better living conditions, better housing, improved working conditions, curbing the use of alcohol, etc. He claims also that crime in the Netherlands would have been considerably higher during the depression if it had not been for social-security measures such as unemployment insurance and care of the unemployed. See BONGER, W. A., "Development of the Penal Law in the Netherlands," *Journal of Criminal Law and Criminology*, Vol. 24, pp. 269–270, 1953–1934.

improving the social and economic well-being of the underprivileged classes in modern capitalistic countries, there is no reliable indication, with the possible exception of the Netherlands, that this upward gradation has been accompanied by any visible reduction in crime. And it is doubtful that experiments to curtail the materialism and individualism of modern capitalistic society would appreciably reduce the amount of crime of otherwise physically and mentally normal persons. The problem of adjustment to new codes, new institutions, and new schemes of values would still be there.

Social planning, also, is not the panacea to eliminate crime. At best, social planning can only improve conditions not immediately connected with crime and delinquency, such as better housing, greater economic security, better health, more leisure time, more education. Moreover, it can push the existing facilities and programs for handling social problems into higher and better operational gear. And finally, it might enable society to deal with change somewhat more effectively. But it cannot personally insure good adjustment of individuals and groups to any complicated social order, unless the planning program could assume omnipotent proportions.

If some operationally effective recipe for counteracting the forces of personal disorganization could be found in a modern complicated, mobile, and changing social order, some visible reduction in crime might become apparent for the same reasons that crime was infrequent in normal, isolated, primitive, and peasant communities—*viz.*, that individuals for the most part were controlled by the social order. But there is no indication at present that large-scale social planning has found this recipe.

Without meaning to be trite or supercilious, we hold it to be quite possible that one obvious way to renovate the social order so as to reduce the volume of crime is to revise the rules, regulations, laws, and codes that define crimes. This would involve the discarding of a host of petty rules and laws that define infractions and the retention of only regulations that safeguard the most important values of a society. Legal experts have already sensed the need for simplifying and standardizing the criminal codes of modern society. A step further would be the elimination of petty penal sanctions, which compose the greatest volume of crime in a modern society. Precedent for overlooking certain offenses under certain circumstances has already been set by the use of juvenile court methods and adult and juvenile probation. The evidence from the experience of prison discipline lends support to the notion, since the elimination of many petty, unnecessary disciplinary rules has been accompanied by better prison discipline and better adjustment of offenders to prison life.

CHAPTER XXII

PREVENTION AT THE JUVENILE LEVEL

It is clear that a workable formula for crime prevention has not been discovered. The lines of preventive effort followed so far have contained very little crime prevention potential. Most of them are conspicuous for their exaggerated claims. Prevention needs to stop the sources of criminal behavior, *i.e.*, to prevent persons from becoming delinquent and criminal who otherwise would become so. But the etiological sources of criminal behavior are not definitely known. Because of the lack of positive knowledge about the causes of crime, it is impossible to posit preventive measures on demonstrable facts of the roots of crime.

Many authorities would agree, however, that the most important sources of criminal behavior run back to childhood. While some authorities would disagree with this position, they would probably admit that, in the absence of other workable clues, the pointing of preventive measures toward the juvenile level of life is at least aiming at the preincubatory period of crime. Furthermore, from an economical and practical standpoint of public welfare, it is better to focus effort on the predelinquent or precriminal level of life than to scatter resources far and wide in the attempt to cover the etiological sources of crime. For, after all, no matter what the causes of crime may be, the child becomes the criminal in later years.

Child-welfare Programs

A host of special programs have developed in the late nineteenth and early twentieth centuries to aid underprivileged and problem children. These programs developed primarily out of a reform movement to alleviate the unwholesome conditions of child life. Some of them were conceived as operating directly to prevent delinquency, while most of them embraced the conception that indirectly or secondarily they functioned to curb juvenile demoralization and delinquency. While examination of the child-welfare programs will show that very few of them are geared to effective coverage on children, it will also indicate that they contain a much greater crime prevention potential than sterilization, custodial care of the unfit, better housing, social insurance, social planning, and all the other previously discussed methods and measures of prevention of crime.

Perhaps no modern country in the world has been the trial grounds for so many different kinds of delinquency-prevention programs as has the United States. In one field alone, Stone found from discoverable records that approximately 145 separately organized boys' activity programs had come into existence during the last seventy-five years in the United States.[1] All of these programs were initiated for the purpose of stabilizing character, counteracting maladjustment, and directly or indirectly preventing delinquency. Consequently, American experiments cover pretty well the range of approaches to delinquency prevention through child-welfare programs that attempt to mitigate the risks of demoralization.[2]

Case-work and Group-work Programs

As far as their bearing on delinquency prevention is concerned, the American experiments in child protection and welfare can be reduced to two fundamental approaches: programs that use the case-work method and those that use the group-work method. This dichotomy of approach is merely one of convenience for study, since many programs might involve a combination of both approaches.

The child-care programs that have attempted to readjust individual children who display behavior difficulties largely follow the case-work method, concentrating on individual cases. American programs that have used the individual case method include child-guidance or child-behavior clinics, mental-hygiene service in public schools, personal supervision of children by probation workers of juvenile courts and by social workers of child-protective agencies and social settlements, the supervision of problem children in schools by visiting teachers, foster-home placement of delinquent and dependent children. This is by no means a complete list and is merely intended to be illustrative.

The group-work programs in America have largely been concentrated in recreational, leisure-time, educational activity programs, including Y. M. C. A., boy scouts, boys' clubs, 4-H clubs, parks and playgrounds,

[1] Stone, Walter L., *The Development of Boys' Work in the United States*, Ph.D. dissertation, pp. 102–103, Appendixes A and B, Vanderbilt University, 1933.

[2] It is interesting to note that recommendations of a South African police official for a policy of delinquency prevention are pointed squarely at the child and are almost direct copies of the types of child-welfare programs that have flourished in America. See Lieut-Col. G. D. Gray, "The Prevention of Juvenile Crime," *The Police Journal*, Vol. 18, pp. 18, 23, London, March, 1931. It is also interesting to notice the rather limited preventive facilities and functions of the "Jugendgerichtshilfe" in Germany, which prior to the Nazi regime constituted one of the outstanding preventive agencies. See Hans Kruse, "Jugendgerichtshilfe," *Zeitschrift für die gesamte Strafrechtswissenschaft*, Vol. 56, pp. 523–534, 1937, for a statement of the origin and development of this agency.

continuation and night schools, extracurricular programs in schools, CCC training camps, summer camps, to mention a mere handful of instances. Group-work programs use a group, class, or mass of children as the unit of operation, although much personal case work with individual children by supervisors can be done incidentally to the conduct of these programs.

Most sociologists and welfare workers would agree that the volume coverage on children by group-work programs is several fold greater than that by case-work programs, although they would not agree that group-work programs excel the case-work programs in effective coverage.

It should be pointed out that there are very few instances where case-work programs are definitely covering children before they become delinquent. Most of the case-work programs deal with delinquent as well as predelinquent cases. Some are attempting to deal with children who from early signs of behavior difficulties are considered to be predelinquent. Consequently, much of what is done in case-work programs with children may be regarded as treatment in one sense and prevention in another. Insofar as they are attempting to rehabilitate the already delinquent, they are treatment programs. Insofar as they attempt to nip delinquency in the bud and curb later maturation in crime, they are prevention programs. When they deal with problem children who have not already been officially handled by police and courts, they are, of course, more clearly performing a preventive function.

Group-work programs also deal with nondelinquents, predelinquents, and delinquents, and consequently their preventive potential likewise cannot be judged strictly on what they do for children who would have become delinquent if it had not been for the coverage of their programs

Limitations in Coverage and Effectiveness

The programs that are organized for individualized handling of children who are delinquent or who are problem cases assumed to be risks for later delinquency are faced with severe limitations of coverage. Adequate case-work facilities for individualized handling are very expensive and consequently excellent provision for handling all children needing expert attention is almost economically impossible. The coverage on delinquent and problem children by case-work facilities is still very small in the United States today, since so few communities can afford such programs. Even where a city has been fortunate enough to maintain child-guidance clinics, mental-hygiene and visiting-teacher service in schools, probation work in specially organized juvenile courts, and agencies undertaking foster-home placements and special supervisory programs, the coverage on children who could benefit from expert individualized handling by case-work facilities is quite low. In fact, it is

recognized today that individualized handling can best be done with small case loads per unit of operation and that large loads seriously hamper the effectiveness of case work. Inspection of a recently published volume of cases that were handled by individual placement in foster homes indicates quite clearly the enormous amount of facilities and individual attention necessary to do effective work.[1]

Some time ago it was recognized that child-guidance clinics that undertook to make elaborate diagnostic studies of cases as well as to handle the program of readjustment of each case were faced with serious limitations in reaching power. And it was recommended then that the guidance clinic operate mainly as a consultation service center, relying on the case-work agencies who referred the cases in the first place to assume the handling of the recommended plan of readjustment for each case.[2]

In spite of the intensive application of case-work methods, the programs using them for the most part must rely on assumed rather than measured effectiveness of operations. Outcome studies have been made in only a few instances and the degree of successful outcome of cases is not uniformly high. In the Massachusetts experiment with foster-home placement of delinquent cases, a dubiously high percentage of success was discovered.[3] In a sample outcome check of cases handled by a demonstration child-guidance clinic in New York City, the measure of success was fairly low and very dubious at that.[4] The follow-up study of cases, several years after clinical handling, in Boston and Chicago, showed discouragingly poor results, although for reasons beyond the control of the guidance clinic program.[5]

It is not known at the present time whether successful outcome, two, five, or ten years after a case has been "closed" by an agency, is due to the agency's method of handling or to other forces. And it is not known whether unsuccessful outcome can be laid at the door of the program that undertook supervision of the case. As a matter of fact, an objective and acceptable basis of measuring the specific results of case work has not been developed as yet. Theoretically, case-work methods, if wide coverage on cases can be obtained, have considerable crime-preventive potential.

[1] See the cases of foster-home placements presented in MARY BUELL SAYLES, *Substitute Parents, A Study of Foster Families*, pp. 73-307, New York, 1936.

[2] THOMAS, WILLIAM I., and DOROTHY SWAIN THOMAS, *The Child in America*, pp. 151–152, New York, 1928.

[3] See pp. 384–386.

[4] LEE, PORTER R., "An Experiment in the Evaluation of Social Case Work," *Proceedings of the American Statistical Association*, Vol. 23, p. 171, 1928. See criticisms of the very noticeable shortcomings of this effort to appraise case outcomes in WALTER C. RECKLESS and MAPHEUS SMITH, *Juvenile Delinquency*, pp. 292–293, New York, 1932.

[5] See pp. 381–383.

But much more study of an experimentation with adequate gearing of programs will have to take place in the future before we can tell just what effective results are achieved through individualized handling methods. Undoubtedly, many revisions in approach will have to be made in order to increase operational effectiveness. So far, the individual case-work programs in America have mainly operated under the canons and principles of social work, psychiatry, and psychology, and it may be that an infusion of the tenets of cultural anthropology and sociology into the case-work programs can be of considerable assistance in achieving operational success with cases. The optimistic note in the preventive programs that touch problem children is that they recognize the need for revision of work and procedure according to newer insights. In this sense, the programs are straining toward improvement.

From the standpoint of delinquency and crime prevention there are two practical problems that face group-work programs: (1) the gearing of programs downward in age and class to reach children who need stabilizing most of all and (2) the development of a program which so influences habits, attitudes, and character that there is good transfer to ordinary unsupervised life situations. Group-work programs tend to attract the well-organized children, who see merit in the sponsored activities. These children, in all likelihood, would continue to be law-abiding, stabilized individuals without the exposure to supervised recreational, leisure-time, and educational activities. Attention has been called to the fact that programs such as the boy scouts and boys' department of the Y. M. C. A. mainly reach middle-class boys, who already are poor risks for delinquency. Playground and social-settlement programs likewise, even though operating in slum areas of cities, have difficulty in reaching children who are the greatest risks for delinquency and crime.[1]

Much of the inability of group work to reach children who need stabilizing most is due to the particular content of the programs and the technique of their operation. The programs have been based on what instrumental adult leaders thought was good for children. And this has largely meant the attempt to superimpose middle-class adult values and standards on children. Consequently, the programs have not appealed to and have not attracted children whose interests, activities, and background are not in line with middle-class adult standards of morals and wholesome activities. Particularly noticeable has been the inability of many well-intentioned leisure-time programs to reach children sophisticated in gang activities and street life, children who have grown up in a world in which middle-class norms of behavior are quite alien.[2]

[1] RECKLESS and SMITH, *op. cit.*, pp. 304–326.

[2] THRASHER, FREDERIC M., *The Gang*, pp. 495–530, Chicago, 1927; THOMAS, *op. cit.*, pp. 166–218; RECKLESS and SMITH, *op. cit.*, pp. 302–326.

The other critical problem facing group-work programs concerns the extent to which they are able to produce permanent changes in attitudes, habits, and character. In most instances, group work merely touches the children they reach for an hour or two per week. This is not sufficient time to modify profoundly or alter the life organization of children who are risks for delinquency and crime. And neither does this represent enough exposure to counteract forces of demoralization, which are constantly at work in unsupervised spare time of children. Besides the time element, there is strong suspicion that the content and technique of group-work programs as now constituted have a minimum carry-over value to unsupervised life situations. One might even hazard the suspicion that they are not so effective as molders of behavior as are movies, radio, and commercialized recreation. There is also strong suspicion that the most effective influence of group-work programs comes from the by-products of personal contact with adult leaders, who have the art of closing the distance between adults and children and of maintaining prestige in their eyes.

Research in Operational Effectiveness of Group Work

Hardly any thoroughgoing researches have been made to assay the results accomplished by group-work programs as far as their delinquency-prevention effectiveness is concerned. Michael and Adler, surveying the information available on the results of prevention work, concluded that (up to 1933) there was no knowledge of the real effects of any so-called preventive programs.[1] Healy cited the case of South End of Boston as "the only social program, widespread and unofficially coordinated, that I can offer in proof of the efficacy of a social program for the prevention of delinquency."[2] Over a ten-year period, according to Healy, there had been no marked change in population or in police policy in this area. "Three main settlement houses have built up a preventive program, school people have cooperated, and churches of several denominations have entered into the spirit of the project by organizing boys' clubs and scout groups." The probation officer, who has been working the area for several years, used to have a case load of eighty to ninety offenders, many of whom were serious cases but now has a load of only twenty-two, none of whom are serious cases. "Another proof of the value of this preventive program is shown by the fact that while there has been a special effort to draw in the younger potential delinquents, it was possible to hold their interest for years in a constructive program. Many

[1] Michael, Jerome, and Mortimer J. Adler, *Crime, Law and Social Science*, Chap. 7, "Researches in Prevention," pp. 216–225, New York, 1933.

[2] Healy, William, "The Prevention of Delinquency and Criminality," *Journal of Criminal Law and Criminology*, Vol. 24, p. 81, 1933–1934.

of them now twenty-two or twenty-three years old continue their club activities. The spirit has spread so that there is an overwhelming number of applicants at the various centers."[1]

One of the first important attempts to investigate the operational effectiveness of a standard group-work program in America was made by Thrasher, who studied the workings of a boys' club program in one area of New York City. As a result of painstaking research, it was discovered that this particular boys' club "was not an important factor in the prevention of juvenile delinquency during the four initial years of its existence."[2] The particular research methods used in the study and certain special findings of the investigation are described as follows:

The Study measured the influence of this Club during its initial four years from 1927 to 1931, utilizing the descriptive, ecological, statistical, and case-study methods. A study of the Boys' Club community covering basic social facts, conditions related to delinquency and its propagation, and wholesome influences affecting boys, and a complete descriptive and statistical study of the Club itself provided a background for the evaluation of the Club as a delinquency-preventing agency. This was accomplished through a study of the membership in comparison with non-members and membership turnover, case-studies of delinquents within and without the Club, and a comparative analysis of delinquency in the Club and in the community.

Obviously, the general conclusion is that the Club did not succeed in reaching a large number of boys whom it was designed to serve.

A study of the distribution of Club members indicates that large numbers were drawn from outside the forty city blocks originally conceived to be the Club's area of service and that numbers of members were enrolled from outside the even larger area delimited by the Club Director. The Club during its first three years never enrolled more than 59 per cent of the eligible boys in the thirty city blocks in its immediate area and in one year chosen as being typical 73 per cent, or practically three-fourths, of the eligible boys on the immediate threshold of the Club were not enrolled. It was found that approximately one-third of the boys who joined each year quit after one year. A comparatively small percentage of boys remained members year after year. Since the announced theory of the Club was that its full influence is exerted only by keeping the boys through the Junior and Intermediate age until they graduate into the Senior division, this instability of membership constituted a failure to achieve a continuous influence through critical adolescent years.

It is obvious that there was never any conscious attempt by the Club administration to enlist the potential delinquent as such or to know what boys who were not members might profit by Boys' Club membership.

The Boys' Club was enrolling a more "underprivileged" class of boys, or a group probably including more potential delinquents, than represented among

[1] *Ibid.*, p. 82.

[2] THRASHER, FREDERIC M., "The Boys' Club and Juvenile Delinquency," *American Journal of Sociology*, Vol. 42, p. 68, July, 1936.

the non-members of the club of the same age group. This was in sharp contrast with the other boys' work organizations in the area, which had been "skimming the cream," so to speak, of the boy population.

The Boys' Club during these four years, however, had no influence in decreasing the number of offenses committed from year to year by its own members (that is, by boys who were not delinquent before they joined the Club), although a decreasing trend would be expected if the preventive influence of the Club were having a direct effect. Furthermore, only 18 per cent of the offenses of Boys' Club members occurred before membership, while 28 per cent took place after a membership period and 61 per cent occurred during a period of active affiliation with the Club.

The Club failed to prevent delinquency among its members, who continued to acquire court records in about the same proportions as they would had they not joined the Club.

It is apparent that it was only in exceptional cases that the delinquent boy in the Club received special attention or even came to the notice of the staff. There was no plan to deal with all of these boys in any systematic or thorough way or to give them recognized types of treatment according to their individual needs such as would be accorded by any good case-working agency.

The acute behavior problems in these cases precipitated by various combinations of family disorganization, dire poverty, school maladjustments, gang activities, association with older hoodlums and underworld characters, demoralizing experiences on the streets and in institutions of commercialized amusement and neighborhood hangouts—these influences for the most part were beyond the power of the Boys' Club to neutralize, particularly in the limited time each week which the average Boys' Club member spent in club activities involving, as they did, little real guidance from the Club personnel.

It would seem that the proponents of this Club as an agency of crime prevention not only had been claiming too much for the Boys' Club per se, but that its friends had been expecting far too much of it. Crime prevention turns out to be not the function of a single preventive agency, but a problem requiring the concerted attack of a co-ordinated community program in which the services of all preventive and remedial agencies must be integrated in the achievement of a common end.[1]

The Chicago Area Project

While Thrasher tested the delinquency-preventing capacity of a well-implemented group-work program that had been established in accordance with the traditional lines of boys' club policy, *viz.*, of attempting to reach underprivileged boys in disorganized urban neighborhoods, Shaw and associates made the effort to develop a program which experimentally could be shown to reduce delinquency in areas of high delinquency rates in Chicago. The Chicago Area Project, begun in 1932 and incorporated in 1934, represents an experiment, conducted on a research basis, to develop a program which will give as full coverage on children in the area of opera-

[1] *Ibid.*, pp. 67–78.

tion, day in and day out during spare-time hours, as is possible to obtain, which will elicit favorable response from and participation of those levels of child life that existing leisure-time activity programs have had difficulty in reaching, and which will actually reduce the volume of delinquency in the area of operation. (See Appendix J.) Some of the operational tenets of this experiment include: use of natural rather than artificial groups in the neighborhood, use of local leaders who have prestige in the eyes of the led rather than imported leaders, use of already existing facilities and institutions in the neighborhood, local determination of the content of the program rather than the imposition of a standardized program of considerable alienating risk, constant consultation with group-activity leaders for purposes of checking on and improving operational effectiveness, keeping the trained personnel in the background, and the accumulation of data and records by which results can be evaluated.

A preliminary appraisal of the effectiveness of the project, after five years of operation, indicated that "there has been ample demonstration of the willingness and ability of local residents to assume a responsible place in developing and executing a constructive neighborhood program, provided that they are given an opportunity to do so." Preliminary check on the volume of official delinquency in one of the areas of the project showed that it had visibly declined since the introduction of the program. As far as could be ascertained, this marked decline in the number of officially reported delinquents was not due to changes in the composition of the population in the area, to faulty accounting or overlooking of delinquency cases, or to any other ephemeral factors that are usually behind the claims made for reduced delinquency incidence.

It is of interest to note that the number of boys arrested in the South Chicago area has decreased since the program was initiated. Each year the percentage of boys aged 10 to 17 years arrested for delinquency ranges from 1 to 25 among all the communities of the city. For many years the rate in the community in question was approximately 7 per cent. Since the development of the program in 1932, this rate has decreased with each successive year. In 1936, it was exactly 1 per cent, which closely approximates the lowest community rate in the city. During the years from 1926 to the end of 1931, an average of 71 boys residing in this area were arrested for delinquency. As the neighborhood developed its program in 1932, the number of boys arrested decreased as follows: 50 in 1932, 53 in 1933, 31 in 1934, 27 in 1935 and in 1936 only 14.

The significance of these statistics becomes more evident when they are compared with similar figures for a contiguous area in which no comparable neighborhood program has been developed. In this area, the average number of boys arrested annually during the period from 1926 to the end of 1931 was 64. The number for each succeeding year was as follows: 85 in 1932, 63 in 1933, 62 in 1934, 52 in 1935, 52 in 1936. The number in 1936 represents a decrease of 19.8 per cent under the average for the period 1926 to 1931, as compared to a

decrease of 80.2 per cent for the same period in the area in which the Area Project program has been in operation. There have been no changes in the composition of the population nor in the general economic conditions which might explain the decrease in delinquency in the community. It has been due, we have reason to believe, to the program which the neighborhood has developed through its own efforts and with the limited financial assistance provided from outside resources.[1]

Modern Varieties of Delinquency-prevention Programs

Having decided that programs that reach children contain the greatest possibilities for crime prevention, the Gluecks and associates attempted to gather together and analyze examples of the most advanced and most fruitful types of delinquency-prevention experiments in America that concerned themselves with child behavior. As a result of this sampling study, the different varieties of delinquency-prevention programs were found to fall administratively into the following classes: (1) coordinated community programs. (2) school programs, (3) police programs, (4) intramural (full-time) guidance programs, (5) extramural (part-time) guidance programs. (6) boys' club and recreation programs.[2] It was found that these programs entailed both the case-work and the group-work approach in their efforts to handle children. The outstanding characteristics of these behavior conditioning programs, conceived to contain the most advanced preventive methods, are described by Glueck as follows:

a. Coordinated Community Programs.—Those who stress a coordinated community approach to the problems of crime prevention are inclined to the view that preventive activity should be predicated upon the recognition of the community or neighborhood or "area" as a more or less natural cultural entity. Since the forces that make for juvenile demoralization pervade entire regions, it would seem that a community-wide program is called for. Such a program involves consideration of the entire network of culture-generating and culture-transmitting forces in a neighborhood or city: its destructive and constructive agencies, its public and private institutions, its means of work and play, its gangs, its citizens' groups, its ethnic and language problems, its prejudices, and the like. The essence of a coordinated community program seems to be the recognition of the interrelationship of the various elements in community life, their reformulation according to some desirable standard of communal soundness, the strengthening of constructive elements and weakening or removal of others, and the guidance of the community's growth, under appropriate leadership, toward the realization of wholesome values in the lives of the community and its denizens.

[1] From a preliminary report on *The Chicago Area Project*, by Ernest W. Burgess, Clifford R. Shaw, and Joseph D. Lohman, mimeographed, Institute for Juvenile Research, Chicago, 1937.

[2] *Preventing Crime*, A Symposium, ed. by Sheldon Glueck and Eleanor T. Glueck, p. 13, McGraw-Hill Book Company, Inc., New York, 1936.

Among the outstanding features of this approach to the problems involved in a crime-prevention program are the following: (1) A preliminary survey of the region to be served to determine its problems and criminogenic influences; (2) the canvassing of the community's constructive resources—both institutional and human—and of the possibility of their more widespread and intensive employment under guidance; (3) the determining of the scope of activity of existing social-welfare organizations and the extent of their cooperation and overlapping in the solution of the community's problems; (4) the providing of an organization for the better collaboration of existing agencies and extension of their services, as well as those of such institutions as schools, churches, playgrounds, play streets and the like; (5) the education of the public in the aims and methods of a cooperative effort to reduce delinquency and crime and enrich the material and spiritual resources of the community; (6) the liberal use of citizen's groups, civic organizations, and individuals in planning and carrying on the various elements of an interwoven program of crime prevention and community welfare.[1]

b. School Programs.—The strategic position of the schools in having children under control during their most impressionable years has already been mentioned. And yet, as a number of contributors point out, the schools have on the whole been slow to make the most of their rare opportunities for discovering and counteracting dissatisfactions and maladjustments that may lead to misconduct.

Among the significant features of the schools' attack upon delinquency are the following: (1) Discovery of children mentally or physically handicapped and children presenting behavior or other special problems; (2) provision of special classes or schools for the intensive study and individualized treatment of such children, for making curricula more attractive, and for otherwise counteracting the mass-treatment tendency of schools; (3) employment of visiting teachers or other social workers in bridging the gap between the school and the home; (4) collaboration of the school system with other community organizations and agencies.

c. Police Programs.—Under informed guidance, a police crime-prevention unit furnishes not only the protective and repressive aspects of preventive work, but many of the others which are normally carried on by other agencies. Its chief activities are the supervision of the "plague spots" of delinquency (commercial poolrooms, dancehalls, and the like); the granting of advice to parents and others regarding children in danger of becoming delinquent; the arrest of adults endangering the morals or health of youth; the teaching of children to respect the law and its officers; the putting of predelinquent and delinquent children and parents in touch with community-welfare and health organizations and related activities. The presence in a police department of a crime-prevention unit serves the further purpose of reinterpreting, in a socially desirable manner, the entire range of tasks of the police in the modern community. The

[1] According to Kenneth S. Bean, coordinating councils were known to be functioning in 165 cities and towns of the United States during the period December 1, 1935, to July 1, 1936. Nine large cities had 84 such councils. Los Angeles had 21. California had more councils by far than any other state. See "Community Coordination for Prevention of Delinquency," in *The Community Approach to Delinquency Prevention*, pp. 89–115, National Probation Association, New York, 1936.

contributors show that crime-preventive efforts by a police department can reflect the philosophy and technique of the trained social worker without interfering with the efficiency of the traditional branches of a metropolitan police organization.

Effective work on the part of a crime-prevention unit in a police department is dependent not only on the specific activities of the unit, but upon its intimate collaboration with other constructive community agencies.[1]

d. Intramural Guidance Programs.—Under this head is included the work of private institutions which give full-time supervision to problem children over a period of a few months to several years. Not only problem children, however, but many normal ones might benefit by some of the guidance techniques utilized in these institutions. The reader is invited to compare and contrast the methods of citizenship training in a supervised community of children, such as the George Junior Republic or the Children's Village, with those employed by Blades in his "Study Home for Problem Children," and the special techniques developed by Wagner in a camp for problem children. While these establishments differ in many ways, they have in common the advantage of having the subjects for guidance under continuous and many-sided control.

In the case of certain children, education thus broadly conceived necessitates a controlled environment for a time long enough to permit of readjustment of habits and attitudes in the chief activities of life; such an environment, under professional guidance, is supplied by establishments like the Republic and Village.

Both the Republic and the Village recognize the importance of adequate clinical facilities for the study of children, of keeping academic and vocational curricula flexible and adjustable to the needs of individual children, of staffing the experiment with well-trained and sympathetic workers. They both recognize the need of being constantly alert to prevent the deadening routine of institutional life from stifling the spontaneity and experimental vitality of their programs. Yet the two institutions are not similar. The Republic has the advantage of having in its midst a large proportion of children who are not delinquents. The life of its "citizens" is more analogous to life in the community. On the other hand, the Village appears to have done more intensive experimentation along pedagogical lines with young delinquents. It is readily conceivable that such establishments will develop techniques that will be found useful in the educational field generally.

Wagner's experiment of a camp for delinquents also has considerable promise. The reader's attention is particularly invited to his discussion of special techniques developed for such a camp, the qualifications of personnel, and the need of having some nondelinquent children at camp as a leaven in the loaf.

The Blades experiment is valuable in showing the place of the intelligently and sympathetically managed small foster home in a broad program for coping

[1] See GALLAGHER, HUBERT R., *Crime Prevention as a Municipal Function*, pp. 14, 15–18, 44–55, Syracuse University, Syracuse, N. Y., 1930, which defines the role of the police in a crime-prevention program. Prior to date of publication, he indicated there were just 13 Crime Prevention Bureaus in police departments of the United States and they were performing only a very small part of their recognized functions.

with predelinquency and delinquency. Here a genuine home spirit is maintained, the routinization of a large institution is avoided, yet the scientific insight available to a large institution is provided.

e. Extramural Guidance Programs.—The four experiments embraced in this category have in common the fact that directly or indirectly they give part-time guidance only: they do not have the advantage of full control of their clientele.

A chief point in the work of the Alfred Willson Children's Center, is that not only diagnosis and customary clinical treatment, but most of the other elements of an organic program for dealing with predelinquent and delinquent children, are centralized under unified control. Not only is the case diagnosed, but all medical and social work necessary is carried out and paid for by the Center.

The other clinical program described is that of the Worcester Child Guidance Clinic. An interesting feature of this clinic is its relation to a state mental hospital. Another is the careful procedure developed for educating representatives of social agencies and schools, and of the community generally, in the aims and methods of a children's clinic. Interesting, also, are Hartwell's views regarding the relationship of a clinic to the work of courts. But most significant is his analysis of the types of therapy he found useful, particularly his description of the "vital interview," of "direct or active therapy," and "indirect or passive therapy," and of the "emotional tones or moods which tend to permeate the mental lives of most well-adjusted individuals." An unusual experiment [is] being carried on by the Domestic Relations Court of Franklin County, Columbus, Ohio, in educating the parents of young delinquents who are on probation, to understand the misbehavior and needs of their children. It undoubtedly represents one of the very few efforts of the kind being made anywhere in the United States. It well illustrates the discernment with which magistrates of vision can improve the traditional functions of courts.

In still another extramural guidance program (the Big Sister Service in Rochester, New York), the reader's attention is particularly directed to the liberal use of the services of selected nonprofessional workers. Public and private funds for the employment of technically trained workers in the prevention and treatment of delinquency are insufficient to permit of the growth of intensive treatment work without volunteer assistance. While leadership and direction must always remain in the hands of the technically qualified, their efforts can be multiplied by the judicious employment of volunteer aid, at least partially trained and adequately supervised, as is the case in Rochester.

Because of the handicap of not having full control of their clientele, extramural guidance programs such as those described in this section have to depend largely for their success upon the intimacy of the contact which they can establish with those sent to them for guidance. This is certainly a challenge to their best efforts.

f. Boys' Club and Recreation Programs.—The boys' club is the typical illustration of an essentially (though not exclusively) group-work method of supervising the leisure time of children. It is of course recognized by the workers in this field that recreation is not the exclusive interest of childhood and is certainly not the sole gateway to prevention. However, the absorption of the energies

of youth in harmless or constructive pursuits not only takes up much of the time that might otherwise be put to vicious and antisocial uses, but is an entering wedge to winning the confidence of youth and exerting an influence for good in other than recreational activities.

Instead of opening their doors merely to boys who have the interest, curiosity, and initiative to partake of their facilities, boys' clubs are coming to feel obligated to go out into the community and draw in boys who in the past were neglected. Scudder and Thompson show convincingly how the boys' club must reach out into the community to induce youngsters to participate in wholesome recreational and character-building activities, instead of waiting for the boys to come to them. Particularly is this true in respect to boy gangs which, under skillful guidance, can be transformed into healthy play groups.

Such aspects of modern boys' club work as are related to the tasks of preventing delinquency indicate that a healthy process of redefinition of aims and practices is under way. The growing recognition by boys' club workers of their past neglect of many of the children who perhaps need their services the most is a sign of their vitality and capacity for adaptation.[1]

The Gluecks were constrained to conclude that the evidence from these program experiments, no matter what might be their final outcome, "justifies our looking to the future of crime control with at least some degree of optimism."[2] One should not overlook the fact that the programs collected in the Gluecks' symposium are experimental only in attitude or in the trial-and-error sense of try this and try that according to new lights and insights. They are not experimental, however, in the more profound sense of the term, since that they were not proved on a testing ground or in a test run before they were advocated for general use.[3] Actually, the programs were advocated and installed before their operational effectiveness was known, and the experimental feature of them is that they may at some future time be studied to see what results they achieve or, as time goes on, may be modified in accordance with new insights and procedures.

Whatever might be the popular optimistic appraisal of the efficacy of delinquency-prevention programs in America, it should be understood also that the combined coverage of such programs is very small and that for many years to come the majority of children in a country even as wealthy and progressive as America will remain unreached and unassisted by such programs. The problem of delinquency prevention is not only one of finding types of programs that can reach and stabilize children

[1] *Preventing Crime*, A Symposium, ed. by Sheldon Glueck and Eleanor T. Glueck, pp. 12–21, McGraw-Hill Book Company, Inc., New York, 1936.

[2] *Ibid.*, p. 22.

[3] This point was made by the author in a review of the Gluecks' symposium, which appeared in the *Annals of the American Academy of Political and Social Science*, Vol. 18, p. 230, January, 1937

who are risks for delinquency but also one of extending the operations of such efficacious programs to as many urban and rural areas as possible so as to obtain maximum coverage on the nation's children who become delinquent in childhood and ultimately criminal in adulthood.

Principles of Delinquency Prevention

From an analysis of the aims, philosophies, techniques, and insights that are contained in the modern types of American delinquency-prevention programs as covered by the Gluecks' symposium, certain guiding principles in delinquency-prevention work were deduced and some of the more important of these are listed below. Although these principles were not uncovered for the first time in the Gluecks' symposium, they do represent guideposts for procedure, which have been set up according to the best insight into the problem of delinquency and its handling that has accumulated in America since the World War.

1. Crime-prevention programs should take into account the evidence that most criminals show definite antisocial tendencies of attitude and behavior early in childhood.
2. In most instances, children should be kept away from the typical contacts with police stations, courts, and correctional institutions until more scientific and sympathetic efforts have failed.
3. An experimental attitude should govern the establishment and conduct of crime-prevention programs.
4. It cannot be definitely concluded as yet that any one type of crime-prevention activity is necessarily superior to, or should be exclusive of, any other.
5. A crime-preventive program should recognize that children must have ample outlets for their energies.
6. In intensive work with problem children and delinquents, the attitudes and prejudices of parents should not be ignored.
7. Trained personnel should be liberally employed in crime-preventive activity, although there is ample room for use of nonprofessional aid, especially under the guidance of trained workers.[1]

The fact that it is now recognized that the most potent sources of crime and delinquency go back to early childhood lends support to the notion that the most fruitful crime-preventive programs are those that reach children. That these behavior-stabilizing programs contain enough promise to advocate keeping children away from police, jails, courts, and penal institutions as far as possible is likewise well recognized, since experience indicates that delinquents who happen to be handled by these agencies are likely to gain sophistication in crime and to develop attitudes prejudical to good adjustment in society. That no one type of program has so far proved wholly efficacious and sufficient for the ends of pre-

[1] *Ibid.*, pp. 6–13.

vention is also clear today. Elastic, resourceful, and opportunistic rather than iron-clad standardized programs appear to have the greatest possibilities for doing an effective piece of delinquency-prevention work. That programs should be fitted to the children and their backgrounds, rather than children fitted to imposed standard programs, is in line too with best modern insight. Consequently, most of these listed principles can be supported by knowledge or experience rather than by mere wishful thinking.

However, in regard to the pronouncement on trained personnel, certain further qualifications need to be made. From the standpoint of economy and effectiveness, it may be wise to encourage greater use of leaders and workers who are not highly trained but who have a knack or a way with children. If greater coverage by group-work and case-work methods is to be obtained, no country, whether Fascistic, capitalistic, or communistic, could afford to supply the number of well-trained persons necessary to the task (assuming agencies and facilities supplementing schools and families). It would seem that qualified, although untrained, persons would need to carry the brunt of the work and that the highly trained personnel should be used for supervision and direction of the competent untrained workers and for special expert services of diagnosis and research for which training is essential. The suspicion is strong that resourcefulness and opportunism are more important in work with children than are professional canons and standards of procedure—that the art of reaching children is more important than the science (*i.e.*, professionalism).

Conclusion

Apparently, crime prevention is in the initial stages of development and no modern country has made any great headway with it. At present it consists of a bundle of unchecked proposals, unverified claims, and trial-and-error experiments. The state of knowledge in criminology is advanced enough to separate the obvious chaff from the wheat in crime-prevention programs, but not advanced enough to command agreement among criminologists themselves, welfare workers, governmental leaders, and laymen on the most effective types of measures and points of application. Even a working distinction between treatment and preventive programs is not clearly appreciated.

There is no indication that crime prevention in the future will resolve itself to a unitary or single approach.[1] It is likely to be a multiform or many-sided approach—using several types of measures and several points of application. However, there is some indication that certain preventive approaches do not contain as much potentiality as others. In spite of support by enthusiasts, sterilization has very limited applicability in

curbing crime. Custodial care for persons unable to live in society has perhaps slightly more promise but not much more. Renovating the social order at effective rather than idealistic or utopian places may hold some promise, but the recipe for stabilizing individuals in a changing complex social order has not been discovered. Child-welfare programs undoubtedly contain the greatest crime-preventive potential, although effective coverage on children has not been achieved.

The practical question for crime prevention in the future concerns the ways and means of obtaining widespread adoption and dissemination of programs found to be increasingly efficacious. Sociologically speaking, a growing crime-prevention program must finally become a part of the scheme of life of people—*i.e.*, a part of their order of things—rather than something supplemental and external. It must really become attached to the sentiments and interests of people to have any mass effect. Preventive medicine, in getting institutionalized (*i.e.*, accepted and entrenched), has done just this. But to be taken into the bosom of a people, a preventive program that claims to have scientific backing must show tangible results. The prevention must be at least partially visible to the public eye.

There is some justification for advocating, in the event a preventive program of many-sided approaches cannot be instituted, that prevention concentrate on the children who before they become delinquent are known to be or suspected of being good risks for delinquency. If those who, from a combination of varying factors, have a high delinquency expectancy in any given society could be singled out, special stabilizing or counteracting measures could be initiated, on the same principle that vaccination is applied before smallpox, not after it.

In this connection, it would be practical to assume that delinquency results from an interactional process between the child and the situation, that recidivism and maturation of criminal careers are continuations and cumulations of the behavior-patterning process, and that preventive work should allay the process by setting up a counterprocess.[1] Therefore, it seems reasonable to suppose that research directed toward a knowledge of behavior-forming processes holds considerably more promise for preventive work than do segmental studies of causes of delinquency, since children may be thrown on the processing line of crime production from many different combinations of factors and circumstances. But once on the assembly line, they are processed by the forces working toward fixation of habit, cumulation of behavior problems, and maturation of criminal careers, unless counterprocessing can be introduced.

[1] RECKLESS, WALTER C., "Juvenile Delinquency and Behavior Patterning," *Journal of Educational Sociology*, Vol. 11, pp. 220–221, 1937.

Finally, there is good reason to believe that research rather than trial-and-error experiments is needed before operationally effective crime-preventive programs will be discovered. The testing of the value of various preventive measures can proceed without waiting for positive knowledge from etiological studies. Verified results of crime-prevention experiments should contain much insight into the nature and variation of crime. But a recipe for effective crime prevention—one that will work universally in time and place—will probably never be found. It is, therefore, highly important to validate the effectiveness of preventive programs in special localities first of all, and thereafter to make the necessary experimental adaptations for differences in population and culture in other localities. The discovery of why one program works in a Chicago area and why a different one works in a Berlin area should clearly add to the fundamental knowledge of criminology as a comparative science.

APPENDIX A

A CASE STUDY OF A CATATONIC

BY H. WARREN DUNHAM

Note: The following material has been drawn from one of many cases which form the basis of Mr. Dunham's researches in Chicago on the relation of schizophrenia to crime.[1] His comments on this case help to place the case. "In the case of this Italian boy it would seem that his prognosis is fairly good considering the fact that he has been out of the hospital for several years with no additional disturbances. While these catatonics do go into the extreme negativistic states, they also show a much higher rate of recovery than the other types of schizophrenia. I have observed recoveries in even the extreme state, although not always lasting. The subject showed at the onset a typical excited and impulsive state but unlike some catatonics never progressed to any extreme cataleptic condition. A case such as this one can, of course, raise many questions among the psychiatrists as to the correctness of the official diagnosis. This case does compare favorably as to character of onset, type of personality, behavior in the psychotic state, and relations with other persons, with other cases which I have in my possession."

The bulk of the case history consists of approximately ninety typewritten pages of interview material, given in the language of the subject and obtained from several follow-up contacts after the case had been discharged. It is possible to cite only indicative excerpts from the interview material, which may serve to show Dunham's contention that the withdrawing behavior of catatonics is such as to curtail participation in and response to activities that would be prevocative of delinquency and crime. Names and places are changed, to preserve anonymity.

STATISTICAL DATA

Name:—Joseph Monario
Age:—20 Sex:—Male Marital Condition:—Single Race:—White
Education:—High School (Two years) Occupation:—Delivery boy
Religion:—Catholic Birthplace:—Chicago

Parents:	Name	Age	Occupation	Birthplace
Father	James	51	Junk paper	Italy
Mother	Angela	47	Housewife	Italy
Siblings:				
Brother	Vito (deaf mute)	28	Barber	Italy
Brother	Damon	23	Unemployed	U. S.
Brother	Solomon	22	Assists father	"
Patient	Joseph	20	Unemployed	"
Sister	Ruth	14	"	"

[1] Mr. Dunham's research was a project jointly sponsored by the Social Science Research Committee, University of Chicago, and the Illinois State Psychopathic Institute of Chicago, September, 1935, to June, 1938.

Outstanding Medical Facts: Twenty years old. Mental symptoms developed following an appendectomy. Became very restless, noisy. Was received in restraint. Hears voices. At times is very noisy.

HOSPITAL RECORD

Reasons for Admission.—Patient was brought to the hospital from home by his brother because he imagined he was God and thought he was going to perform miracles. Information from patient's brother, a young Italian boy who seemed very devoted to patient and gave information willingly.

Family History.—Mother and father are both living and well. There are three brothers and one sister living and well. There is no history of insanity, epilepsy or tuberculosis in the family.

Personal History.—Patient was born in Chicago. When he was five years old, he was struck with a hatchet, while playing, and injured his left eye, so that he lost the sight. Twelve days before admission here, patient had an appendectomy at Mother Gabriel Hospital. There is no history of any other illness.

Education.—Patient was employed as a delivery boy for the Stegal Department Store for three years. He worked until his attack of appendicitis.

Habits.—No use of alcohol, drugs, or tobacco.

Marital.—Patient has girl friends but has never had any love affairs.

Personality.—Patient was always a leader in play groups—enjoyed all kinds of sports and athletics. He played on neighborhood football teams and attended the Garibaldi Institute.

Onset.—While patient was in the hospital, following the appendectomy, about the eighth day, he began to imagine that he was the Almighty, and he talked a great deal. He thought he could see people around him, and talked to them, when there was really no one there. He told all his family of miracles he was going to perform. For instance, he threw a cup at the wall and when it made a mark he said it was a miracle—that it left a mark on the wall. He threw another cup, and it didn't happen to break. He said it was miracle that it didn't break. Whoever comes near him he wants to make the Holy Ghost. After returning home from the hospital, he became more excited than ever and has not slept during the last two nights. He ate well and drank large amounts of water.

Physical Examination.—Essentially negative. Blood examination—negative Kahn.

Provisional Diagnosis.—Dementia Praecox, Catatonic.

Length of Hospitalization.—Fourteen months. Paroled to brother for three months and then discharged by statute.

INTERVIEW MATERIAL

I was working as a delivery boy at the Stegal Department Store when I was taken sick. I went home one day feeling very ill, and my mother called a doctor, and that

evening I went to the Mother Gabriel Hospital to be operated on for appendicitis. I got over my operation so good that I thought I had some divine gift. I recall throwing cups against the wall after I had come home and saying that they would not break. I thought that it was the way that I could perform a miracle. However, that all seems sort of foolish now.

I left school when I was about fifteen and shortly afterwards I got a job as an errand boy on a Chicago newspaper. I worked there for about a month and then quit to take my job at Stegal's.

I was always interested in all kinds of athletics, baseball, football, basketball. I belong to a club of boys that hung out at the Garibaldi Institute. We called ourselves the Jimmy Archer Boys. Our clique was noted for its honesty. This interest in athletics kept us off the streets. Everything is athletics around here. This is an athletic environment.

When I'm alone, I start thinking about many things, such as playing ball, and whether I could ever become a good baseball star, as to whether I could get a job and get ahead on it. In fact, I daydream I guess. I often wonder whether other people do these things. One night I went to a dance, and after the dance I had a dream about a girl who I saw there although I had not danced with her. During the night I thought I was in a passionate mood with her and flew off the handle.

Of course I have not seen many girls, and I have not [approached] one yet. I often wondered how I should go about it, how I would feel, and whether I would have enough gumption to do it.

I feel that I have an inferiority complex. Somehow with them I feel backward. I have never really been in love, I guess. I used to see quite a few girls when I worked in the department store.

As far back as I can remember I used to watch ball games. I would spend most of my time at the playground of the JPI watching these games. In the evening when the games were over, a bunch of us fellows would go around looking for mischief. We would throw stones around the playground, and pester the girls who were on the swings. That was our idea of fun.

(To a question in regard to whether he had ever stolen in company with the boys from a local Jewish shop keeper.) Some of the fellows stole, but I guess I did not have enough initiative to do anything like that. Sometimes fellows would come by from a baseball game and go in there for something to eat, like pie, and as he could not keep an eye on every boy at once, the fellows would walk off with all kinds of things to eat. Maybe, I did not do it because I was afraid. Perhaps, it was because I was brought up in a Catholic school. I guess that I had the idea that I did not have as much ability as they did. If the proprietor would ever get hold of me and start to question me, I would stutter and stammer, I suppose, while the other fellows could get away with it and walk away nonchalantly.

(To a question as to whether he had ever hung around much with many boys who stole.) I have known a couple of boys around the neighborhood who would go out and steal some. These two fellows would go out in two different sections of the city and run off with someone's bicycle.

(To a question as to whether he was ever invited by the boys to go out to steal.) They never did ask me, but I guess I would not go out anyway.

I remember one time when one of the boys who had a bicycle and who had a friend who he liked very well. He was telling the other fellows that I could not ride as good as his friend could. They got to talking about it, and it was decided that I was to race his friend. Just then some other fellow turned up and the fellow who owned the bike suggested that this other fellow should ride it in place of me. I guess it was because this other fellow was older. It must have been an act of God

because when they were racing the fellow that I was supposed to race was hit by a truck and crushed.

(To a question as to whether he ever did any bumming from school.) Never. I may have ditched a couple of classes in high school. I remember being late a couple of times for the afternoon class because the boys were having a ball game in the streets at noon.

(To a question about daydreaming.) These vary. Sometimes I think of becoming a big basketball player and being a star on the school team and later playing professional ball and becoming a great man some day. Then, I think about having a good opportunity to get married to some girl and settle down into married life. I never thought these things would come through but it was just the satisfaction of thinking about them.

Sometimes, there were dances at the store which I attended but I never did take the initiative to ask the girls out. I would have liked to, but somehow or other I just didn't. Either I figured I would be refused or I would be embarrassed and make a fool of myself. I thought maybe that they would just make a chump of me because I appeared to be just a young kid and didn't appear to be very old.

I'm trying to get back on the job myself. If I get on again, I may be able to work myself up. If they find my work satisfactory, they may keep me. They put on some extra help after Thanksgiving, and then they pick out a few of the boys who are good and keep them for a month or two after Christmas to try them out. I have told the man down there who I have seen a number of times since I got out of the hospital that the only reason I quit was because I had to have an operation, but it did not seem to make any difference to him, and he would just say that there was no opening now.

E. Did you ever ask a girl for a definite date to take her out in the evening?

M. I never did. There were a few fellows I palled with, and they would always meet the girls at the dance hall or at the show.

E. Are you afraid that you might get into trouble?

M. I never was the type that would cause trouble. I think that I have not caused trouble for anybody. There is the type who is always looking for trouble like a bully. I would never bully anybody in that way. I would try to avoid all trouble. I tried to avoid trouble as much as possible.

E. Do you feel that you are continually trying to keep out of trouble?

M. I just feel that way inside of me, I guess. For example, when riding with a fellow in a car which is speeding along pretty fast I always have a fear of getting hurt or pinched for speeding.

E. When was the last time that you were with a girl?

M. When I was dancing. This was about two months ago at some wedding I attended. After the wedding we started dancing.

(The examiner took the opportunity to invite him to a party given by one of the social clubs at Hull House. This club is composed entirely of Italian boys and girls of Joe's own age. On receiving this invitation Joe appeared at a loss for words. "I hardly know what to say. I don't know." The examiner told him to think it over, and he could talk to him about it at the next appointment, which was made for the next morning at nine o'clock.)

I didn't want to give an answer yesterday because I have nothing to wear and my suit looked so shabby. (The examiner feels that this reason was not very valid considering the dress of the other boys in the neighborhood. On all the occasions when the examiner had seen him, Joe has invariably made a neat and clean appearance. His present suit is very neat and shows no particular evidence of being worn out even around the cuffs and pockets. Joe's face and hands are always clean.)

(On the day before, the examiner had called Joe on the phone and had invited him to a party given by one of the girls' social clubs at Hull House.' As on the last occasion when he received such an invitation, Joe hesitated and did not say definitely as to whether he would come. He promised to come over the next day for an interview and would let the examiner know at that time.)

I guess that I can make that party. When you called I was not able to say definitely because I thought that I might be working. But we worked this morning instead. I thought I might be working this afternoon and then would be too tired to go to the party. You see my brother Sol is sick in bed, and I have had to take his place in helping Dad.

I sure had a good time at the last party. I was walking home, and four girls were going my way, and so I went along with them. Two of them went in front, and I followed with the girl that I danced with first. She lives somewhere on Loomis Street. I walked down Polk with them and I asked her if she wanted me to take her home, but she said no, that some one might see us.

E. What did you and the girls talk about on that evening?

M. Oh! They talked about joining a gym class. She was rather heavy set and wanted to throw off some weight. One of the girls thought that I was a member of the club and asked me to vote for her if she cared to join. I told her that I was not a member.

E. Would you like to join the club?

M. I am still undecided as to whether it would be all right. I guess it is a change and I have just been going along taking it easy. Sometimes I have had intentions of joining, and then I don't know. I guess it is because I have joined so many clubs, and they have all broken up. I just don't want to join and then have it break up.

E. How have you felt about your home situation?

M. Just recently I have felt that I owe something to my folks. I have thought that I should be helping the family, and so I go willingly now when my father wants me. When I was younger, I felt that why couldn't the other boys do the work and let me alone. But I feel differently about it now, of course.

E. In the past how did you feel about it?

M. I always wanted to be at home. I never thought of getting away. I would spend most of my time around the house. I was always happy at home. I never had any intention of running away from home. In fact I was always afraid to wander too far away from home.

E. Why were you afraid?

M. I guess that I just did not have it in me to go away from home. The thought of being alone made me scared. At home I had my other three brothers to gad around with. At least, I had some company.

E. Do you know any fellows around the neighborhood that commit robbery with guns?

M. I hear talk about them but I never see them in action. They are fellows between fifteen and nineteen years of age, just youngsters. Maybe I made them too old. Most of them are under seventeen. One of them lives across the alley from me. He has been around on robberies quite a lot.

E. Did they ever invite you to go with them on these robberies?

M. I never did associate with them much. The only time that we were together was when we would play ball. They live mostly on T. and I live on A.

E. Have you made any attempts to have [contact with girls]?

M. No. I haven't. I have the intentions of meeting some girl, and the first time I meet her and being guided by the way she acts. As far as going to a disorderly house is concerned, I don't know whether I would go alone. I don't associate

with any boys anymore, and I don't know how I would go about it. I remember just the other night I had a dream, and I was in a disorderly house, and I had intercourse with a woman. She was beautiful. I believe it was somewhat on the order of a tavern. I stepped in and there were girls dancing. As I came in, the owner stepped up and asked if any of the girls wanted to buy me for twenty-five cents.

E. Why do you hang back with the girls when the other fellows were always having their experiences and telling about it?

M. I don't know. I wasn't built to be telling about things I never had. I never had ground to base my experiences. I never thought it right to be bragging about something that never did happen.

April 19, 19__

(On the above date Joe dropped into the examiner's apartment unexpectedly. The examiner had not seen him for some time. When Joe arrived he said, "Gee, I sure missed you. Demon club broke up. There were not enough fellows in it to keep my interest. I have been playing basketball a lot ever since I had physical exam over at the church. I got acquainted with a number of fellows playing basketball. I used to like to watch these fellows play ball at the park, and I know most of them by sight, you know fellows that I would see every day, but I didn't have anything to say to them. I spoke to a fellow named Lefty quite often, but never spoke to the other fellows, although I watched them play a lot, but I never met any of them. This was the first year that the church has had a basketball team.")

E. How did you happen to call on me? Was there anything on your mind, Joe?

M. No, I just wanted to keep up the acquaintance.

E. Is there any particular problem that you might be worrying about?

M. Well, I have been thinking about the CCC camps, but I only go about it half-heartedly. I want to go, yet I don't want to go. I have never been out of the city much, and I got the idea that I would like to see other parts of the country, chiefly I guess because there is nothing of importance to keep me here. I have no chance for a job, and everything in general prompts me to go.

E. Is there anything which prompts you not to go?

M. Oh yes, I have been hearing so many rumors about sickness in the camps, and the food is not fit to eat. That is what they say. Then my mother does not want me to leave here.

E. Do you think that your mother would let you?

M. I don't know. I have not even mentioned it, but I doubt it. She would be afraid to have me away from home. If my cousin would sign up again, she might let me go. Mother has always been afraid to let me go. Solomon was away for two weeks in New York last summer and she was afraid that something would happen to him. She was very glad to see him get back. I have never been any place farther than Chicago Heights, and I have spent no nights away from home.

(The examiner asked him to make a list of all the boys he had bummed around with during his life on the West Side. While he was making this list, he said, in response to a remark of the examiner's, "No, I never ditched school if that is what you mean. I may have cut a couple of classes, but that is all."

(In regard to the list which he was making he said, "I hardly know these fellows well enough to ask them to come with me to call on you. I do not pal with them, and than I would not want to. There seems to be disorder among them, small cliques and no harmony.")

E. What other things have you been daydreaming about recently, Joe?

M. I have been trying hard to think of what I have been dreaming about lately. You see I think a lot about jobs, and I take time when I daydream about those things, but in other things I just think of them for a minute and then forget them.

I had thought about swimming recently and I see myself trying to dive into the water, but it seems like I always have a little fear and cannot do it. When playing baseball I kind of have had the feeling that I couldn't hit the ball hard and so I thought to myself that I would turn around and bat lefty. You see if you don't hit the ball hard, the boys won't let you come up to bat as often as I like to play baseball.

Another thing I think is peculiar about me is a tendency to look at a [girl] if she is beautiful. I noticed that downtown yesterday, and I try to overcome this, but I like beauties and feel that I have this against me. In the neighborhood I noticed that the boys who keep after women that the other boys continually rib them about being so girl-crazy.

E. Why do you think you should overcome this?

M. I feel very self-conscious about it or guilty or something, and I feel that it is not the right thing to know. If you know a girl and then look at her, that is different.

APPENDIX B

SAMPLE RECORD FROM PSYCHOPATHIC CLINIC OF THE RECORDER'S COURT, DETROIT

LOWELL S. SELLING, M.D., PH.D., DIRECTOR

Face Sheet Data

Sex—Male
Age—39
Color—White
Date of birth—10-14-1899
Civil condition—Separated
Nativity—Ohio
Nativity of father—Ohio
Nativity of mother—Ohio
Religion—Baptist
Citizen of—United States
In Detroit—2 months
Legal residence—Cleveland
Charge—Carrying concealed weapons
Plea: Guilty
Source—Referred by Judge S.

Police Record Cleared with Record Bureau, Detroit Police Department (October 21, 1938)

Date	Charge	Disposition
8-10-38	Carrying Concealed Weapons	
7-6-17	Violation Auto Law	15 months State Reformatory Mansfield, Ohio. Parole Violator Returned. Final Release, 1921
4-16-23	Liquor Law (Cleveland)	$300.00 and costs
8-9-26	Fugitive (Cleveland, Ohio)	Knoxville, Tenn. ?
8-14-26	Knoxville—Possessing forged checks	Released by Pros.
12-3-27	(Cleveland) robbery	?
2-9-28	Grand Larceny	Mansfield State Reformatory 1–7 years
1-8-31	Knoxville—Holdup and Robbery	State Prison 5 years
7-29-33	Violation Post Office Laws	15 months United States Prison Leavenworth 7-12-34 Conditional release

Physical Examination (October 17, 1938)

Age:
39

Complaints:

Ulcers of the stomach since 1927.

Past History:

1. Mumps and whooping cough in childhood.
2. In 1928 he had an operation at the Cleveland City Hospital for ulcers but is still having symptoms.
3. In 1934 he was operated on for an appendectomy at Leavenworth.
4. Circumcision at 18.
5. Gonorrhea in 1925.

Physical:

This is a fairly well-developed, fairly well-nourished, athletic white male with blue eyes and light brown hair. Five feet, 10 inches tall, he weighs 171 pounds. The tonsils are enlarged and septic. He has one carious tooth. The heart and lungs are normal. The blood pressure is 110/70. Genitals: The penis and testicles are of medium size. Vision: 20/20 in both eyes.

He has two operative scars on the abdomen. A large hair mole is present on the right chest just above the nipple. There is a tattoo mark on the right forearm with the inscription "Lydia."

Neurological:

The pupils react to light and accommodation. The eyegrounds and E.O.M. are negative. No abnormalities of the cranial nerves were revealed. The reflexes are active and equal. The Babinski, Oppenheim, and Romberg signs are negative. No muscle paralysis or weakness was noted. There were no disturbances of gait or coordination.

Summary:

1. Septic tonsils.
2. Dental caries.
3. History of gonorrhea.
4. Symptoms of peptic ulcer.

Venereal:

Board of Health—Kahn negative.

Sociological Examination (October 20, 1938)

Introduction:

This is a tall, well-built, athletic, thirty-nine-year-old white man who is separated from his fifth wife, was born in Ohio of native American parents, is a Baptist, has lived in Detroit for two months with friends in an upper flat at ____ Pallister. He has an Intelligence Quotient of 85, finished the eighth grade in Cleveland public schools, is at present unemployed. He looks five or ten years younger than his age, has brown hair which is combed pompadour and receding at the temples, blue eyes, a clear light complexion, and unusually clean and regular teeth; his upper lip protrudes. He is neatly dressed in a green gabardine double-breasted suit, a brown striped shirt. He is alert, but only superficially cooperative; makes a favorable impression but quickly proceeds to identify himself as an unreliable, evasive and unstable psychopath.

Complaint:

Patient is referred to us by Judge S. before whom he pleads guilty to the charge of carrying Concealed Weapons. He was arrested at 12:30 in the morning on August 10,

1938, in a beer garden somewhere on John R. Street, but being unfamiliar with the city he cannot locate it further. He tells a long and involved story which to the present examiner borders on the fantastic. He says that he had come to Detroit to look for work in the factories, had become discouraged after several days, and sought to find employment as a labor union organizer, so went over to the Kroger Warehouse on Merritt at Junction Avenue where there was a strike and where the men were picketing. He says that he met two men who represented themselves as union organizers: Mr. C. about thirty-two years old, and one "Steve," a middle-age Pole. He was drinking beer in a saloon opposite the warehouse from 2:30 in the afternoon until 10:30 at night when an "A. F. and L. organizer," a friend of the two men with whom the patient was drinking, came into the saloon, talked to them and discouraged him from further union pursuits. He says that the three of them became quite intoxicated, got into "Steve's" car, and at the patient's request drove to the downtown Postal Telegraph station where he sent a wire to his wife to meet him the next morning at ____ Pallister "because I figured I couldn't get into the A. F. and L. and was going to get a job at the Chevrolet or Fisher plant in Flint. The man drove North on John R; me and Mr. C. was tight. Before we went far Steve pulled out a revolver and shot the gun off on the floor of the car just to be smart. Then Jimmy takes the gun away from him. I wanted to stop for a beer and as we was passing this beer garden Jimmy C. said I should take the gun because I was the only one that had a coat so I took it and took four bullets out of it and put them in my pocket. Then we went into the beer garden and I must have been showing the gun off as the deputy sheriff arrested me. He let the other three go and lost all chance of identifying them. If we could find them I could identify the man that gave me the gun and that would get me out of this."

The patient says that he has never done labor union work except "when I was working at W_____ at Cleveland last year, I worked on the QT for the benefit of our company and we tried to ban the C.I.O. out of there. I went from house to house telling people not to join the C.I.O. because we were getting a charter from Columbus for our independence union.

Patient says that he is wanted by Cleveland Police at present for Forgery. He said that the cashier at W_____, an auto parts factory, is the man who got him the job there. He is crooked and "padded the payroll." He says that the cashier gave him twelve checks totalling $800 and told him to meet him in downtown Cleveland. "I cashed them in my own friends' business places and that shows I was on the level; then I met the cashier, he got drunk and I reminded him that he owed me $125. I told him I was going to get an operation for my ulcers so I went to New Orleans." Patient says that he spent all of the money, that when he returned to Cleveland it would be easy for him to prove his innocence.

He has been arrested on four prior occasions: First, for Auto Theft at the age of seventeen years, when he was sentenced to serve fifteen months in Mansfield Reformatory; second, for Grand Larceny ($1,500) at the age of twenty-six years when he was returned to Mansfield for two years; third, at the age of thirty-one years for Robbery Armed in Knoxville, Tennessee, when he was sentenced to serve twenty-seven months; fourth, at the age of thirty-three years for Burglary in the Post Office in Piqua, Ohio, when he was sentenced to serve a year in Leavenworth and was discharged on July 11, 1934.

Social History:

He is the oldest of nine siblings, one of whom died in infancy, and another died as an adult when he fell between moving box cars while riding South. His father was a fairly adequate shipping clerk, not alcoholic, but neglected his family; he died when

the patient was twenty-four years of age. Patient denies parental preference but "fought against" his mother's remarriage two years later. Patient has a brother who was a chronic alcoholic and deserted his wife; two other brothers have been arrested and sentenced for Larceny.

Patient has been married five times: (1) At the age of twenty-one years to a girl twenty-six who owned the flat where patient and his family lived; he says he lived with her intermittently for five years, when she divorced him; she has since remarried. (2) At thirty-two years to a girl twenty-five whom he left in a few months after discovering that she was tubercular. "My doctor told me I'd better leave her for my own health's sake." (3) At the age of thirty-four years to a girl twenty-eight whom he had met through correspondence in a chain letter. He left this girl after a week when he discovered she had infantile paralysis, "was a cripple," and he could not get along with her "rich friends." (4) At the age of thirty-seven years to a girl thirty-five whom he left after two weeks "because she was too high strung and jealous and fought like a tiger." (5) Patient married his present wife last year in November. He denies sexual intimacy before marriage, says that they lived together two weeks; "I have no criticism for her; she is a swell lady and always will be. We think a lot of each other."

Patient denies any sexual difficulty with any of his five wives. He also denies psychosexual deviations except mutual masturbation which he practiced in adolescence. He denies fellatio, pederasty, exhibitionism, pedophilia, and inferiority feelings. He says that he has masturbated only occasionally as an adult, only when in prison.

Except for his last job for two and a half years as a machinist at W_____'s auto parts plant, Cleveland, patient's work record is irregular and inadequate. He had frequently been unemployed for as long as one and a half to two years and, as noted, has served four prison sentences of a year or more.

Patient denies habitual alcoholism except to admit it freely in connection with the present offense. He says that he becomes intoxicated only on holidays, about twice a year. He denies the use of narcotics. He is fairly well informed.

He complains of stomach trouble, says that he has been operated for ulcers and for appendicitis. He says that he sleeps fitfully, is bothered with insomnia, his ulcers make him lie awake for hours, that he has been "sick" either resting at home or in bed, practically sixty days during the last year.

Etiology:

1. Lax parents who never disciplined; delinquent siblings.
2. Mother attachment which seems to be the basis for patient's unwholesome attitude towards women. His is an attitude which seems to fuse extreme idealization with vicious exploitation.
3. Early delinquency.
4. An egocentric, unstable, inadequate psychopath who has become a chronic recidivist.

Diagnosis:

This man is an egocentric psychopath who is inadequate and unstable. He is markedly evasive and unreliable. His manner is that of a hardened criminal and he is potentially homicidal. There was a homosexualism in the form of mutual masturbation during adolescence. He has a mother attachment and is at present maritally maladjusted as he is separated from his fifth wife. Judgment and insight are poor. He gives a history of peptic ulcers; complains that the symptoms persist. He has had gonorrhea.

Disposition:

This man should be institutionalized by sentence for a maximum period for purposes of segregation and, if possible, re-education and occupational training. At the termination of his sentence he should be returned to Cleveland to face the arrest which awaits him there.

Psychiatric Examination (October 20, 1938)

This thirty-nine-year-old white patient looked five or ten years younger than his actual age. He had a medium athletic build, brown hair and blue eyes. He wore a light blue suit, brown striped shirt, and black oxfords.

He was very unreliable. He appeared very antisocial, having the mannerisms of an habitual criminal. He said that he came here to organize American Federation of Labor Unions. He was drinking with three union men who were on strike at a Kroger Store. He said one of them had a gun and he put it in his coat pocket to carry it for him. It was seen by a deputy sheriff. He was first arrested for an auto theft at the age of seventeen, and was given fifteen months at Mansfield. When he was twenty-six he stole $1,500 and was given two years at Mansfield. In 1931 he served twenty-five months in the Tennessee Penitentiary at Nashville for Robbery Armed. In 1933 he burglarized a post office in Ohio and served a year in Leavenworth. At the present time he is wanted in Cleveland for Forgery which involves some $800.

He showed no abnormalities of behavior and was correctly oriented.

Impression:

No psychosis. Psychopathic personality, egocentric, recidivistic, markedly unreliable, family rejection, sex maladjustment, history of psychosexual deviation (homosexual). Ideally he should be permanently institutionalized.

Conference Note (October 24, 1938)

Diagnosis:

Psychopathic personality, egocentric, unstable, inadequate, evasive, recidivistic, potentially homicidal, unreliable, mother attachment, marital maladjustment, alcoholic, history of gonorrhea, question of pseudologia fantastica.

Recommendation:

Institutionalization by sentence.

Report of Examination to Judge S. (October 24, 1938)

This thirty-nine-year-old white native of Ohio, who pleaded guilty to the charge of Carrying Concealed Weapons, tells a very unreliable and fantastic story about his present arrest. He said he came to Detroit to organize the union men and was drinking with three of them when he took a loaded gun from one of them to carry as he was wearing a coat. He has an extensive record and has not benefited by previous disciplinary measures consisting of a fifteen-month sentence for an auto theft at the age of seventeen, two years at Mansfield, Ohio at the age of twenty-six for stealing $1,500, and twenty-five months in the Tennessee Penitentiary for Robbery Armed; he also had a year at Leavenworth for the Burglary of a post office in 1933. At the present time he is wanted in Cleveland for Forgery.

Physical Examination:

The physical examination reveals a fairly well-developed, fairly well-nourished, athletic white male who is five feet, ten inches tall and weighs 171 pounds. His

tonsils are enlarged and infected. He gave a history of having had gastric ulcers since 1927 with an operation for this in 1928 but is still having symptoms. He had a circumcision at the age of eighteen and an appendectomy in 1934. He admits having had gonorrhea in 1925 but denies ever having had syphilis. Syphilis must be ruled out and after the case has been legally disposed of there should be an investigation of the gastro-intestinal tract with Xrays and any necessary treatment indicated. He should also have Xrays of the chest to rule out tuberculosis as one of his wives was tubercular.

Personality Evaluation:

He is the oldest of nine siblings, one of whom died in infancy; another sibling was hoboing and was killed in a train accident. The father, a fairly adequate shipping clerk, although he was non-alcoholic, neglected his family and died when the patient was twenty-four years of age. The patient resented his mother's remarriage, which occurred two years later. He has one brother who is a chronic alcoholic and has deserted his wife; two other brothers have been arrested and sentenced for Larceny.

The patient claims to have been married five times and although he attempts to blame his wives for his failure to adjust, he is undoubtedly concealing important information and may be psychosexually deviated. A strong mother fixation may be the underlying basis for his marital incompatibility. He did give a history of mutual masturbation during adolescence and occasional masturbation as an adult. His industrial adjustment has been haphazard, consisting of irregular and inadequate work with periods of unemployment of from one and a half to two years. His last position was his longest, being two and a half years as a machinist in Cleveland. He is probably much more alcoholic than he admits.

Psychological Evaluation:

The psychological examination showed the patient to be correctly oriented, to be fairly well informed, and to have low average intelligence by test.

Psychiatric Evaluation:

At the present time he shows no psychosis. He is markedly inadequate, unstable with egocentric compensations, evasive, recidivistic, unreliable, alcoholic and potentially homicidal. Some of his stories are suggestive of pseudologia fantastica or pathological lying.

Treatment:

At the present time he is not committable to any mental institution. He is a very poor risk in the community. We would suggest institutionalization by sentence with medical observation, and psychiatric examination before he is considered for parole.

APPENDIX C

THE PENAL SYSTEM IN BELGIUM[1]

BY DR. LOUIS VERVAECK

REFORMS IN THE PENAL CODE

The most important modification brought into the Belgian penal legislation in the course of these last years is certainly the law of social protection [April, 9, 1930] as regards abnormal and habitual offenders.

The offender known to be mentally abnormal escapes penal treatment proper from this time on. He will be the object of therapeutic and educational treatment which will be continued until his condition is judged sufficiently improved to permit him to re-enter society without danger to it; on the other hand, if, at the expiration of the term of sentence, the condition of the abnormal justifies the prolongation of his confinement, it may be continued for a similar length of time—or indefinitely if necessary. This law realizes, as a fact, the principle of the indeterminate sentence for abnormal delinquents.

The execution of this socially protective measure is entrusted to special commissions consisting of a magistrate, a lawyer and a psychiatrist—a doctor of the *Service d'Anthropologie pénitentiaire*. Their task is to select the institution in which confinement is to be enforced, to decide upon the question of transfering the abnormal to another establishment or, finally, of freeing the prisoner definitely or conditionally. Let us add that the discovery and examination of abnormals is made under excellent scientific conditions, since they are placed under observation in a psychiatric annex of the prison. This greatly facilitates the investigations of the expert appointed by the examining judges or the court.

For the habitual criminal, the law of social defense of April 9, 1930, establishes a measure of safeguard, the execution of which takes place after he shall have undergone the penalty of imprisonment which has been inflicted upon him at the same time by the court. The repeater, placed at the disposal of the government at the end of his period of punishment, is sent to a special educational institution. This confinement, which has for its prime purpose the protection of society against the repetition of his law-breaking, will end when the administration is made certain that the prisoner can be re-established in society. He is then freed on trial and subject to the vigilant watch of the social assistant of the institution.

PRISON REGIME

The reforms introduced into the penal treatment of convicts may be considered as a practical conclusion of the scientific ascertainments made in the course of thirteen years of systematic research on the thousands of prisoners who filled the two prisons

[1] Reprinted from VERVAECK, LOUIS, "Evolution in the Treatment of Belgian Delinquents and Mentally Ill," *Journal of Criminal Law and Criminology*, Vol. 24, pp. 202–215, 1933–1934.

of Brussels. In 1907, there was founded by Jules Renkin, Minister of Justice, a laboratory of criminal anthropology, the direction of which was entrusted to the writer.

In 1920, at the instigation of Emile Vandervelde, Minister of Justice, a similar laboratory, under the direction of a physician well-versed in criminal anthropology and a practicing psychiatrist connected with an insane asylum as well, was established in the ten important prisons of the country.

Since then, all those sentenced to more than three months' imprisonment as well as all repeaters, whatever the length of their punishment, undergo of their own accord a complete anthropological examination. This examination is even more thorough, especially as regards the psychiatric point of view and professional orientation, for prisoners of sixteen to twenty-one years of age, who are sent to a prison school.

The examination is made with the aid of a *dossier anthropologique*, which contains the results of various medical investigations and laboratory researches, the observations of specialists, neuro-psychological measurements and observations, and finally, the findings furnished by psychiatric observation. Inquiries into the family, educational, professional and military life of the delinquents are made by the social assistants with the purpose of checking and completing their replies as to their heredity, previous life and medical history.

Such an examination, which embraces not only all the aspects of the physical, functional, mental, psychic and moral personality of the delinquent and the origin and circumstances of his offense, but also his entire social life, furnishes some trustworthy data for stating precisely the immediate and more remote causes of his unlawful acts and for determining the appropriate course of his prison treatment.

The course of procedure in individual penitentiary treatment of prisoners is to be discussed and decided upon in weekly or bi-monthly conferences attended by the principal officials of the prison and set down in reports. Thus there will be formed, with the cooperation of the directors, ordinaries, teachers and heads of the supervision department, a true individualization of punishment pursuant to the general aim: suppression and intimidation, the objectives of instruction, of re-education, of guarding if not of curing the prisoners, with the intention—far distant perhaps, but important in our opinion—of assuring their permanent social rehabilitation.

So conceived, the prison will be primarily an instrument for educating, for treating and for preventing the repeater; and so it has become in Belgium in the last twelve years.

Measures for Discovery and for Psychiatric Observation

Besides the thorough physical-mental examination of the prisoners in the laboratories, there exists, in the large prisons, a service for discovering the mental and nervous defects of the entrants.

This service is of considerable importance as regards those placed under order of arrest; all whose mentality is questionable are put under observation, and the public prosecutor is informed of this action in a brief and purely objective report.

The observation takes place in the psychiatric annexes of the ten large prisons in Belgium, under the direction of medical specialists, assisted by superintending nurses who constantly watch the prisoners affected by or suspected of mental or nervous diseases.

Finally, medical and psychiatric inspections are regularly made in all the prisons in order to examine the abnormal and the sick and to suggest the treatment or consignment that is called for by their condition—not only at the end of their period of detention, but also at the expiration of their penalty.

Social Investigations Relative to the Prisoners

Connected with the principal laboratories of the *Anthropologie pénitentiaire* (Brussels, Gand, Liège, Merxplas, the Prison School of Hoogstraeten) are social assistants charged with making investigations to check the statements of convicts and prisoners as a measure of social protection. As soon as the financial situation will allow, this service will be made general. Social assistants are connected with the state asylums of Mons, Tournai, Reckheim and Gheel; they cooperate in the inquiries and the social guardianship of the convicts and prisoners and supervise the insane who are freed on trial.

In all prison matters, the social assistants devote themselves, at the demand of the physician of the Penal Anthropological Service and its directors, to investigations into the family, social, educational and professional environments. These inquiries are for the purpose of checking the allegations of prisoners, to prepare for the rehabilitation of convicts before their liberation and to watch the mode of living of those already freed.

Interesting herself in each prisoner whose family or professional situation necessitates competent intervention, or whose physical or mental condition calls for assistance or control, the social assistant is in close collaboration with the guardianship committees, the offices of social re-adaptation and the mental hygiene clinics. She is in fact a middleman between the *Service Anthropologique* of the prisons and all the organizations that are concerned with the social reconstruction and the moral elevation of delinquents.

Measures of Treatment

a. The organization in the principal penitentiaries of a surgical service, a neurological service, a service for treating venereal diseases and, on the other hand, of weekly consultations on defects of the eye, ear, throat and teeth.

b. The creation of a ward for the cure of tubercular prisoners, at the prison of Forest (Brussels).

c. A prison-sanatorium set up August 1, 1924, at Merxplas, in Campini, in a very healthful region away from urban centers. This is for tubercular convicts and has a ward for the incipiently tubercular. (120 rooms, an average of 65 patients under treatment.)

d. A prison agricultural colony for epileptics, comprising several sections for treating convulsive neurotics.

In 1931, were founded, in virtue of the law of April 9, 1930, five establishments of social protection for abnormals:

The ward in the Asylum of Tournai for the insane and for dangerous psychopathics (men);

The Merxplas institution for the unbalanced (men);

The psycho-educational ward of the *Prison Centrale of Gand* for the feeble-minded (men);

The psychiatric ward of the prison of Forest for the feeble-minded and the unbalanced (women);

The ward of the Asylum of Mons for the insane and the dangerous psychopathics (women).

Let us ask here an institution for social protection (at Merxplas) for the confinement of repeaters placed at the disposal of the government at the end of their penalty.

We call attention to the fact that the regimen of the institutions for social protection is different from that of the prisons; the former is essentially psychiatric and educational.

Educational Measures

a. The prison-school at Hoogstraeten, where all prisoners of sixteen to twenty-five years of age who still have six months' imprisonment to serve are sent; only the feeble-minded, the immoral and those having contagious diseases are excluded.

b. The *École Ménagère* at the prison of Forest—instruction similar to that of the prison of Bruges is given.

c. The workshops of common labor in different prisons, teaching principally carpentry, book-binding, printing, boot-making, and also machine-knitting for women in the prison of Forest.

d. The development of educational and moral activities (close collaboration with the teachers), lectures, movies, concerts.

e. Gymnastic exercises during the recreation periods.

f. A course in anthropology and in clinical criminology for workers; this course is open to students in their last year at the schools of nursing and of social service, to teachers and to those interested in the guardianship and social rehabilitation of criminals. Since 1920, we have given this course at the prison of Forest once a week during the winter semester. It is regularly attended by a hundred students and consists of a half-hour theoretical lecture, followed by a study of those convicts and prisoners who are willing to appear as subjects.

g. A course in scientific and professional instruction is given for one week each semester to those who are in line for a directorship of a prison or who wish to take an examination for promotion. This course covers the following subjects: penal law, administrative law, penal science, criminal anthropology, penitentiary hygiene and medicine, educational theory, industrial and commercial technics.

The courses end with visits to prisons, organizations for social protection, mental hygiene clinics, insane asylums, institutions for the abnormal and organizations for the social re-adaptation and guardianship of convicts and prisoners.

Postpenitentiary Organizations

In Belgium, those who participate in the fight against crime have long understood that, to obtain lasting effects, penitentiary treatment should be sustained and continued by private philanthropic agencies, and the Department of Justice should constantly encourage their cooperation.

Several organizations collaborate in this respect in the work of the moral education and social rehabilitation of delinquents. The oldest of these is the *Comité de Patronage* for convicts, accused awaiting trial and juvenile offenders. It has been functioning in Belgium for forty years and has departments in all the prisons and representatives in all the districts of the country. It is a private group of voluntary members, both male and female, whose work is unprejudiced and totally free from official interference and political partisanship. Besides the social re-adaptation of freed criminals and abnormals, it seeks also to provide juvenile protection and to assist the mentally ill, the blind and the aged.

Its numerous divisions and local committees receive their orders from the *Commission royale des Patronages*, created in 1894, whose first members were appointed by the king. The Commission holds an annual conference, attended by therapeutic, educational and charitable institutions: it thus provides a common meeting ground for groups of this nature.

Social Readaptation

The *Office de Réadaptation sociale* is an active service also. It was established at Brussels in 1932, and has since been extended to Anvers and other cities, with a view

to rehabilitating those unfortunates who have lost the possibility of leading a normal life and who are open to vagrancy, delinquency or dissoluteness.

The fundamental work of the *Réadaptation sociale* is the study of the individuality, of the innate and unalterable personality, of the biological nature of the subjects whose acquired personality they are observing, and their relation to the environment in which they are developing and living; it is on these facts that the diagnosis of each case is based.

Under the control of the *Ligue nationale belge d'Hygiène*, this work is directed by a general council of officials competent, through their contributions to public service, to handle its activity. It functions autonomously, with the flexibility of a private institution, and is closely connected, by the nature of its members, to public authorities, who give it their financial aid and the prestige of their moral support.

Its permanent office in the heart of Brussels is open to all unfortunates in distress, regardless of sex, in the district. It has two divisions: the first receives those who are homeless and reduced to vagrancy; the second, ex-convicts and delinquents, to prevent their becoming destitute and unable to make a living.

The staff of the Office has at its disposal funds which it makes free use of and from which it supplies the money for small necessary expenses. A clothing dispensary, under the management of the same staff and located in the Office building, gives out old and used garments as well as working tools.

On the other hand, the Office can provide lodging for an indefinite time in the *Maisons d'accueil* (shelters) of the *Oeuvre de l'Hospitalité*, with which it is closely connected, to the homeless, when the case is imperative and the circumstances unusual.

The *Oeuvre de l'Hospitalité* is a powerful organization for social protection, and judicial authorities have not hesitated to entrust it with the surveillance or the moral instruction of delinquents out on parole in the Brussels district. The courts send to it both accused prisoners and reprieved convicts, when they are worthy of aid and are destitute.

Mental Hygiene

The *Ligue belge d'hygiène mentale* supplements, in the psychiatric field, the help given to convicts and freed prisoners.

The extent of its activity is very great; among normals, it is interested in the mental hygiene of school-children, employees, laborers and soldiers. Sub-divisions are concerned with the cure of mental and nervous disorders, delinquency, vagrancy, habitual intoxication and juvenile irregularities. The treatment of the diseases and abnormalities of these different groups constitutes a field of action no less important. Besides providing lectures, pamphlets and meetings, the *ligue* has founded, in the large central cities, *Dispensaires d'Hygiène*, the number of which increases each year.

In 1931, 2,683 conferences were held at the *Dispensaire de Bruxelles*, of which 1,422 were for children. Among these latter, 64 were under the direction of the juvenile judge. New patients to the number of 540 were received in 1931, and 1,166 applications or visits were made by the *Service social.*

Welfare Colonies

We should mention here the *Colonies de Bienfaisance* for vagrants, and the institutions for treating mental diseases and abnormalities.

The suppression of vagrancy and beggary comes under the law of November 27, 1891, which established two distinct types of vagrants and beggars: the professional, indolent, given to drink, and vicious on the one hand, and the aged, infirm and jobless on the other.

There are two *Colonies* for men at Merxplas, while the women are interned at St. André-les-Bruges. Vagrants or beggars under eighteen years are, according to the law of May 12, 1912, taught in the state educational institutions. The boys are sent to Ruysselède, Moll and St. Hubert, the girls to St. Servais (Namur).

The vagrants are separated according to their age, physical condition, attitudes and conduct. They all undergo the same routine together, night and day, except for the isolation of the depraved and insubordinate at night.

The discipline of the various sections is similar to that in the penitentiaries. The labor is obligatory, but in assigning the kind of work, professional knowledge, as well as physical condition and mentality, is taken into consideration. The industrial trades are carried on under the direction of an engineer, in the large workshops: brickmaking, tile-making, sewing, shoemaking and repairing, weaving, forging, cabinet-work, carpentry, the manufacture of mats, buttons, mother-of-pearl, etc. . . . The cultivation of the fields and forests is supervised by a farming expert. The *Colonie* has 450 hectares of cultivated land and 500 hectares of woodland.

The vagrants receive wages commensurate to the amount of work they do. The money is divided into two equal parts: one is returned to them for spending money and the other is put aside until they leave.

The *Colonie* has a psychiatric department, under the direction of a specialist—an alienist from the Penal Anthropological Service. Abnormals are placed under observation and are sent to an insane asylum if their case demands it.

L'École de Criminologie et de Police Scientifique

L'École de Criminologie et de Police scientifique is an official institution. Its primary course of study aims at the professional information of policemen, offering them the new theories of criminology, which makes it possible to apply science to judiciary education.

It is essential that minor judiciary officials become acquainted with the individual factors and the social causes of crime. Above all, their attention should be directed to the data and documents that can be used in their investigations, for the research undertaken by the police cannot yield satisfactory results unless the importance of factual data and the method of collecting them are understood.

The program of study of the *École de Criminologie* is as follows:

I. Elementary Courses
   - *a.* Scientific police methods (18 hours)—Dr. De Rechter, Director of the School;
   - *b.* Description of men (15 hours)—M. F. Louvage, commissary of the chief of the police of the courts, Brussels;
   - *c.* Elements of legal medicine (9 hours)—Dr. De Laet;
   - *d.* Criminal anthropology (10 hours)—Dr. Louis Vervaeck, general director of the *Service d'Anthropologie pénitentiaire;*
   - *e.* Elements in the application of penal law and procedure (9 hours)—Collard de Slovère, attorney general.

II. Advanced Courses
   - *a.* Scientific police methods (30 hours)—Dr. De Rechter;
   - *b.* Legal medicine (comprising the elements of toxicology and serum therapy, 29 hours):
     Legal medicine (20 hours)—Dr. Marcel Heger;
     Toxicology (4 hours)—Dr. De Laet;
     Serum therapy (5 hours)—Dr. Bruynooghe;
   - *c.* Physical chemistry (3 hours)—Dr. De Laet;

d. Ballistics, physical and chemical elements (9 hours)—Colonel Mage, professor in the Military School;

e. Criminal anthropology (10 hours of lectures and 10 hours of clinical work at the prison)—Dr. L. Vervaeck;

f. Elements of psychiatry (9 hours)—Dr. Ley, professor of psychiatry at the University of Brussels;

g. Application of penal law and penal procedure (20 hours)—Hayoit de Termincourt, public prosecutor of Brussels.

These courses have been in existence ten years, during which time 1,395 students have taken the elementary work and 222 the advanced, making a total of 1,617 students.

APPENDIX D

THE PENAL SYSTEM IN THE SOVIET UNION[1]

BY JOHN L. GILLIN

Believing that most "crimes" grow out of the spirit and results of a capitalistic economic system, the Soviet authorities naturally place chief emphasis upon training in industry, providing a means of livelihood by labor and "educational" measures whereby the individual will come to share the ideals of a communistic social order.

Hence, confinement for the purpose of trying to re-orient the erring individuals is necessary as well as to prevent their doing harm to individuals and to the social order. During this period of confinement society has a chance to order the life of these persons most closely and if possible convert them into good members of society. The first task is to train them in industry. So the prisons are great trade schools.

More interesting still, instead of conducting their prisons on the theory that prison labor and free labor are in inevitable conflict, Russia arranges the closest connection between prison labor and free labor. The prisoner must be brought to realize the solidarity of all labor. He is not an outcast, but a part of the labor-force of the nation. If he was a member of a trade union upon being sent to prison he does not lose that connection. In fact the prisoner who shows by his industry and conduct that he is one with the great body of free workers, may be sent from the prison during the later stages of his sentence and go to work in a factory. Here he will be under the special care of a group of workers in the factory without any stigma attached to him because of his prison record.

Further, the Russian code allows him, as he develops habits of industry and good behavior, to have furloughs from prison to live with his family and help them in their work. In order to test his stability furloughs from a day to three weeks are allowed as he nears the end of his sentence. These furloughs are in the nature of what we call parole. Supervision is provided by the factory workers or in the country by the local Soviets.

In accordance with their theory of the purpose of confinement, the Soviet authorities have done away with life sentences; the longest sentence is ten years. If a man cannot be changed in that time he cannot be changed at all. In juvenile cases, however, the judge may at the instance of the prison authorities add somewhat to this sentence.

In the prison the offender is subjected to a system of propaganda and social pressure intended to inculcate in him the proper ideals and attitudes. If he is a worker of peasant origin, or even if not but shows adaptability to Sovietism, he becomes a member of cultural groups within the prison intended to complete his transformation. Thus he gets an opportunity for self-expression in accordance with the ideals governing Russia. Wall newspapers are before his eyes each day feeding to him the dominant cultural ideals. Slogans cry at him from the walls. Books

[1] Reprinted from GILLIN, JOHN L., "Russia's Criminal Court and Penal System," *Journal of Criminal Law and Criminology*, Vol. 24, pp. 302–306, 1933–1934.

and magazines are constantly before his eyes inculcating Leninism and Marxism. Quotations from the words of Marx, Engels, Lenin, and Stalin flare in red before him at every turn. He takes part in clubs, classes, study groups, plays, musicales, etc., in which the ideals of Sovietism are promulgated with him as a participant as well as an observer. Groups are organized for self-government. In some institutions these groups handle all minor cases of discipline. These freer expressions of the prisoners are limited to those of peasant and worker origin, or to those who show their sympathy with the aims of the proletariat.

Three penal principles are fundamental to the new code: (1) confinement is reformatory in purpose; (2) in order to protect society and to secure reformation a system of classification is set up for those confined, segregating the more dangerous from the less, the hardened from the first offender, and adapting the treatment to the individual, with greater freedom and more privileges for each progressive class; (3) "isolation" of the incorrigible. With the ordinary variety of wrong-doer, Russia is attempting to carry out only more consistently the most advanced penological principles of Western society.

Among the institutions she has hospitals for the physically or mentally abnormal—health institutions and health colonies. She has followed the West in setting up for young delinquents schools of a medico-pedagogical character.

The more frankly correctional institutions fall into five classes. (1) There are *houses of confinement* for those under investigation, for those who have broken away from their legal sentences and for those who have been sentenced to deprivation for not more than six months. (2) There are *labor reformatories* for those sentenced for over six months whom the authorities believe did wrong because they had not learned a good trade. These institutions are intended to teach offenders a trade. (3) Then, Russia has *labor colonies* for workers and peasants deprived of liberty for not more than five years, who in the belief of the court committed the act from economic necessity, are first offenders, and have not tried to escape suspicion. (4) The next series of institutions are called vocational isolators. They are for those deprived of freedom who are not workers or peasants and have committed the wrong because of their class interests. These institutions are for those also of working class origin who are deemed to be especially dangerous to the state or are in need of disciplinary treatment for a time. (5) Lastly, there are *transitional labor reformatories*—what we might call discharge institutions to prepare offenders for transition to free society. These prisoners have been in other institutions and have shown ability to adapt themselves to normal social life.

In all these institutions the Code provides that there shall be no brutality, no use of chains, no deprivation of food, no use of solitary confinement, and no such degrading devices as interviewing visitors through screens. Prisoners are transferred from one institution to another as the authorities see improvement in attitude and conduct. Work for all is compulsory. Two days of labor counts as three days of the sentence for those who make good progress. Labor conditions in the prisons are controlled by the same labor code as governs free laborers. Those condemned to labor in these institutions are entitled to two weeks' furlough each year after the first five and a half months. If they belong to the working class, this furlough is deducted from the sentence. The wages paid the prisoners are about the same as those paid free labor, less the cost of maintenance. Those condemned to forced labor receive about 25 per cent less. The prisoner may spend a greater proportion of his wages as he advances in grade. The institutions must be self-supporting, so careful management is required.

The educational work in the prisons is a unique feature. There is regular class work, recreation with an educational aim, wall and printed newspaper, clubs, theatrical performances, sports, musical activities, and self-government in the most advanced

grades. Every sort of stimulus and pressure is brought to bear to socialize ("soviet-ize") the inmates.

In the institutions for adults the inmates are divided into three categories: (1) those deprived of freedom and condemned to strict isolation; (2) habitual and certain bourgeois offenders; (3) all the others. Cutting across these categories is a classification or grading system of three grades. Prisoners in the first and second categories on entrance automatically enter the lowest grade. By proper conduct after a minimum part of the sentence has been served—one-half of those of the first category and one-fourth of those of the second—they may be promoted to the middle and upper grades. The prisoners of the third catetory may be assigned by the Supervising Commission to any of the three grades. As an incentive to good conduct and industry, as a prisoner advances in grade his privileges are increased.

The disciplinary measures are limited to reduction in grade with loss of privileges, limitation of the use of personal funds, isolation of the individual up to fourteen days and in removal to an *isolator* where harsher treatment prevails. However, solitary confinement in Russia does not exist in our sense of the word. It is prohibited by the Code. It consists of a stricter separation from the outer world, disbarment from outdoor work and from furlough.

APPENDIX E

THE USE OF LEISURE TIME IN THE TENNESSEE STATE PRISON AT NASHVILLE, 1937[1]

(Prior to some modernizing changes introduced later in 1937, 1938, and 1939)

BY J. CHANDLER ADAMS

Due to the reduction in hours of work in the shops, an increased amount of leisure is making idleness and undirected spare time very apparent. Although great individual variation exists in amount of spare time of prisons a sample questionnaire time-schedule study revealed that on an average inmates worked 5.3 hours per working day and had 9.2 hours of spare time. The supervised spare-time activities consisted of school, church programs, band, baseball, and football teams.

The school is held in the prison chapel under supervision of the chaplain two evenings a week for an hour each during the fall and winter months. Most of the class groups which meet all together in the chapel are for teaching men to read and write. One class had combined content of geography, arithmetic, and spelling. There are two class groups in Bible study. Average attendance of over 2,000 inmates was 162. Teachers are inmates, only 3 of whom said they had college training and one who claimed to have taught in public school. Of the others, few of them had been to high school. No equipment, books, materials, or desks are provided. The band practices in an old room of a shop, which has a piano and straight chairs. The band master is an inmate who is a professional musician. Until recently only one practice was possible per week but the band master was able to get members of the band excused from work to practice. Membership in the band was 24, with an average attendance of 18. Most performances of the band are given at Sunday chapel. A special band concert has to be repeated 4 times to allow all inmates to hear the program, since the chapel only seated 450. No provision is made for music and instruments, which are donated by the community.

Prison shows are very infrequent and then presented by troops from the outside. In five months, only five shows were staged, four of them platform shows and one of them a movie (by a portable set). Three of the stage shows were definitely sexy, with women entertainers. If a show cannot be repeated about three-fourths of the inmates cannot see it because of lack of space in the chapel.

Baseball is in charge of a guard in the T. B. hospital of the prison. Two ball diamonds are available on prison grounds. One for whites, and for Negroes. Suits and equipment are provided. Seventy-five to 100 men come out for the teams and the squad is reduced to 16 for one white team and 30 for two Negro teams. The white team plays outside teams. The Negro teams play between themselves. Practices come after the evening meal until dark. A game with an outside (free) team is well

[1] Summarized from ADAMS, J. CHANDLER, *Usage of Prisoners' Unprescribed Time at the Tennessee State Prison*, pp. 27–121, M.A. Thesis, Vanderbilt University, 1937.

attended by the prisoners. Football is confined to the white prisoners but no outside competition is allowed. Because of the limited participation in these two sports, the great mass of the population starves for physical exercise. There is no indoor gymnasium.

Various denominational church services are held on Sunday—Catholic, Campbell-ite, Christian Scientist, Salvation Army, general Sunday chapel, Sunday school, etc. Negroes participate in these religious offerings more than whites. The largest attendance is at the general Sunday Chapel, at which an average of 340 attend. Sunday school is held directly following the general chapel, the average attendance being 135 in seven classes. The state supplies no hymnbooks or printed literature for religious instruction.

The greatest amount of leisure time is spent in nonsupervised activities—things that prisoners do to fill in time for themselves. According to questionnaire returns from inmates, some of the most frequent types of activities engaged in are arranging of cell, listening to radio in cell, reading of papers and magazines, writing letters, smoking, sitting alone and worrying, taking a bath, planning future life, playing checkers. The prison library possesses over 2,300 books, most of which are antiquated and unattractive reading. Light-fiction books are in greatest demand.

APPENDIX F

FACILITIES AND PROGRAM OF SING SING PRISON, NEW YORK, 1936[1]

INDUSTRY

The new shop building No. 2 is of reinforced concrete and is located on the site of the old power house. It was occupied March 25th of this year. The offices of the Deputy Superintendent of Industries, which were for many years located in the old knit shop building, have been transferred to this new industrial building. The print shop is located on the third floor and is adequate and well equipped for the amount of work available. There is ample space for extension when needed. Adjacent to the printing department is a new glove industry, and a box factory and machinery for making envelopes for automobile registration plates are being installed in this building; in fact there has already been some output.

As previously noted, the old knit shop building No. 1 which was severely criticized in the last report, has been torn down and the site graded. A modern shop building is being recommended for this location as soon as funds are available.

The sheet metal industry has an extension in the new shop building No. 2. The shoe department has improved the quality of its products during recent years, but the Deputy Superintendent of Industries reported that some loss was sustained in sales during the past fiscal year, due to the production of a higher-class hard sole slipper.

Brush and Mattress sales were satisfactory this year as compared with the past two years, but shop facilities are adequate to greatly increase the output and the number employed, if more orders were available.

The Knit Goods department is the principal industry in Sing Sing Prison. Besides underwear, many special articles are manufactured in this shop, such as bed spreads and pads, bath robes, nurses' and doctors' gowns, pajamas, sheets and pillow cases, flags, and other specials on order. New machinery has been installed for the making of women's hosiery and an excellent product is being produced.

The printing department shows a decided falling off because of lack of orders. It is limited by law to printing for the Department of Correction and for "penal and charitable institutions." The possibility of extending the printing activities within reasonable bounds is worthy of consideration. At this time 37 men were assigned to the printing industry.

On this date there were assigned to construction, rock excavation and grading 339 men; 915 to actual maintenance work, such as kitchen and mess, cell halls, yard, administration and warden's residence, and the balance, except condemned men, sick in hospital and invalid company were assigned to reception company, school, band, drill corps, segregation, Mutual Welfare League, and other minor duties.

Working inmates receive from five cents a day for maintenance work to thirty cents a day in the industries. Those who are ill and confined in the hospital or

[1] Excerpt from New York State Commission of Correction, report of inspection of Sing Sing Prison, inspected October 23, November 24–25, and December 10, 1936.

invalid company receive two cents per diem. The population is generally assigned to tasks, thus obviating a group listed "for lack of work." All inmates willing to work are assigned either to the Maintenance or Industries Divisions.

Education

On April 1, 1936, the school, which had been for several years located in cramped quarters on the upper floor of what is known as the Recreation Building, was moved to the new School and Library Building recently constructed on the site of the warden's old residence. It is a three-story structure with all quarters light and roomy. The first floor contains equipment for the trade school operation, such as printing machinery, sections of automobiles for classes in the study of automobile mechanism, equipment for the study of electricity, radio, refrigeration and air conditioning. A portion of this floor is also occupied by the bookbinding department, mimeograph, service shelving, etc.

The teaching staff consists of a head-teacher, assistant teacher who is also the librarian, an assistant teacher who is in charge of recreation activities, and one teacher (civilians). There are also about fifteen inmates engaged as teachers.

During the past fiscal year, according to the head-teacher's annual report, the school was in session 178 days, and the records indicate that the total enrollment was 998, the daily attendance being 413.37. The graded lessons consist of six standards, and 423 inmates attended during the year. In the extension division, correspondence courses are conducted in various subjects, such as mathematics, bookkeeping, accounting, English in various forms, music, journalism, commercial law, blue print reading, penmanship, and French, Spanish and Italian. During the fiscal year 654 were enrolled in correspondence courses. The pupils are furnished with the lessons from the school and work them up in their cells, bringing the work to the school for correction and suggestions by the teachers assigned. There is a stenography class in which 36 were enrolled during the year.

In the Vocational school 63 were enrolled in printing, 95 in automobile and electric department, and 18 in the architectural machine drawing class, this group generally consisting of more experienced men.

The Library occupies two-thirds of the top floor of the school building and is operated in conjunction with the school. The steel stacks, tables and chairs were transferred here from the old library, but the desired new furniture has not yet been provided. It is the purpose of the school authorities that the inmates desiring books shall come to the library and select them.

Hospital and Medical

The hospital, which is modern and completely equipped, was reported by the Warden as the first and, until October, 1933, the only prison hospital in America to be fully approved by the American College of Surgeons. It is a four-story brick building within the prison walls.

During the past fiscal year there were admitted to the hospital 316 surgical and 1,377 medical cases; 241 operations were performed. Sick call is conducted each morning, prisoners reporting ill are examined by the physician and treatment prescribed. There were eight deaths during the year, other than executions, which numbered 19.

Eye glasses are furnished to all inmates requiring them. The record showed that during the year the number of so-called State glasses issued averaged thirty a month; 264 special glasses were provided during the same period and 198 extra lenses issued for replacements.

During the year there were in the dental clinic 3,500 extractions, 7,450 permanent and 2,478 temporary fillings, and 5,504 treatments.

Classification Clinic

The Classification Clinic, which is devoted principally to psychiatric and psychological work, is located on the second floor of the hospital building. All new inmates are examined by the psychiatrists soon after admission. The Director of the Clinic reported that during the past fiscal year 821 re-examinations of other inmates were made for the Parole Board; and in addition 962 such examinations were made at the request of the Warden, Principal Keeper, Physicians, school and correspondence divisions. The psychologist administered psychometric tests to 1,746 inmates during the fiscal year.

The Director also reports that forty-eight meetings of the Classification Committee were held at which 1,592 inmates were classified, and fourteen special meetings were held by the Committee to select inmates for transfer to Wallkill Prison. Commitment papers were prepared for 20 inmates transferred to Dannemora State Hospital and 45 transferred to Napanoch. As soon as the Court of Appeals reviews the cases of condemned inmates the Clinic examines them and final reports are made to the Governor's special commission.

The social investigators in connection with this department endeavor to secure information for case histories of incoming inmates, either by correspondence investigations or personal visits to parents, relatives, school authorities, employers, and social agencies.

The work of this clinic does render some assistance in disciplinary cases, in addition to assignments to jobs in the institution, and also furnishes information to groups as mentioned in the foregoing on the basis of clinical study, diagnosis and recommendation. There is as yet little practical classification of institutions and prisoners other than in the form of case records placed in the files.

Idleness

During recreation periods, or when men have no other duties during the day, they may go to the recreation rooms, read, play games or loiter about with nothing to do. Approximately 100 such persons were standing around in idleness at the time of inspection—about 2.30 P.M. Adequate recreation quarters or a drill shed where men with nothing else to occupy their time could assemble in charge of directors and engage in organized recreation, listen to lectures (illustrated) and other worth while endeavors would be much more advantageous. The gymnasium is used to a limited extent for contests, such as basketball games, boxing, etc., but this usually benefits small select groups, except on occasion when the general population is admitted to witness exhibitions.

Recreation

As indicated in the foregoing, a Director of Recreation is provided and the principal activities during the year were baseball, football, playground ball, basket ball, boxing, ice skating and military training. There are many other athletic activities, such as handball, bocci ball, quoits, miniature golf, etc. Tournaments in these sports are held particularly at the annual Track and Field meet on Labor Day.

The band has from sixty to seventy-five members, under the direction of a civilian band master. While some of the members had previous experience, the majority were beginners and receive their training here. There is also a bugle and drum corps as a regular adjunct to the band. The band furnishes music daily for the noon march to mess and forms a part of the military parade and review given by the cadet corps at

week-end athletic contests. During the winter regular concerts are given to the inmates.

Motion picture shows are presented in the late afternoon twice a week in the auditorium. An orchestra formed from members of the band furnishes music on all such occasions. A men's chorus has been organized and rehearses generally three times a week.

Radio programs are provided daily under the censorship of the Director of Recreation with the approval of the Warden. The inmates are provided with head-sets in their cells. After locking-in, in the evening there is no radio reception for one hour, which is called the study period. After that the radio is on until 10.30 P.M.

The school director reported that lectures are held occasionally at which about 1,000 inmates attend.

The new gymnasium building is constructed on the amphitheater plan with all seats facing the center. It is used for various activities, as previously noted in this report.

Religion

The Chaplains report that regular religious services are held in the respective chapels every Sunday and additional services on holy days. Special services are held in the death house and these inmates are visited several times a week by the chaplains. Bibles have been furnished to those desiring them, by the Westchester Bible Society. Christian Science services are held on Sunday and the Salvation Army holds services once a month. Weekly Bible classes have been conducted by a minister from Brooklyn, and Mrs. Field's Bible Class, which has been meeting here for over fifty years, meets the fourth Sunday of each month. Jewish services are held once a week. All chaplains hold frequent interviews with the men of their respective faiths, supply literature and conduct correspondence with families of inmates.

Discipline

The Warden's Court consists of the Warden, Principal Keeper, Assistant Principal Keeper and Chief of the Psychiatric Department. Discipline is usually enforced by means of reduction in grade, loss of time, deprivation of letter, visiting and commissary privileges. For more serious offenses the inmate may be confined in segregation or may be detained temporarily in a jail cell in the rear of the Principal Keeper's office. One such person was locked up at the time of inspection. He was provided with a mattress and blanket and the officer in charge stated he received regular meals. The Warden stated that as a rule inmates confined in segregation are detained from thirty to ninety days. One had been detained nearly eight months, and occasionally a person is held in that section for several months for his own protection. The total number in the regular segregation on November 25th was thirty. This department is modern and the inmates are provided with the regular food, brought from the kitchen in thermos containers, and are given reading matter. They are allowed to exercise daily in the yard.

There have been no escapes or attempted escapes during the past four years.

During the past year the lower west side of Cell Block "B" has been used for psychopaths, protection cases and agitators, and at the time of inspection on November 25th twelve such persons were housed here. The period of detention varies from two weeks to a few months, and they may be transferred to the regular segregation or returned to the population, depending on their behavior. They are provided with regular meals in the mess hall, exercise about three hours daily in the yard, and enjoy all general privileges except association with the population.

Visits and Letter Privileges

First grade men are allowed four visits a month on week days and one on Sunday. All visits are not to exceed one-hour duration. Second grade men are allowed two visits a month. The regular visiting room in the Administration Building, under the supervision of officers, is used for the purpose, with certain exceptions. There are no screens in that section.

Prisoners undergoing punishment or whose prison records are not good are not permitted in the visiting room but are required to visit through the screens adjacent to the segregation sections. At the time of inspection 78 of such men were allowed to visit only through screens. Visitors and inmates are "frisked" by officers before visits and the inmate is again searched before his return to the prison proper.

Inmates are permitted to write letters to relatives, the number being governed by the inmate's conduct in the institution. All mail is censored by civilian officials.

Recommendations

1. That proper action be taken which will make possible the discontinuance of the old cell block for housing purposes at the earliest possible date.
2. That every possible effort be made to provide for the extension of productive employment, and also to establish means of wholesomely occupying the time of that portion of the population which spends much of its time in idleness.
3. That the educational and vocational facilities be improved as rapidly as possible, and such additional qualified teachers be employed as deemed necessary by the educational authorities.
4. That an auxiliary electric light and power service be provided inside the enclosure.
5. That the matter of providing suitable housing facilities for officers be given careful consideration, and as soon as possible the present non-fireproof dormitories be discontinued.
6. That the six obsolete guard towers on the river front be replaced with modern ones.
7. That a better classification of prisoners and a more practical utilization of the Classification Clinic be worked out.
8. That the wisdom of allowing separate storage and preparation of food stuffs be studied by the Commissioner of Correction.
9. That the Commissioner of Correction undertake a study regulating the receipt of packages of food and clothing by inmates, and that rules and regulations now in force be amended to conform to whatever conclusions are reached.

APPENDIX G

SAMPLE CLASSIFICATION REPORTS AND RECORDS, DIAGNOSTIC DEPOT, ILLINOIS STATE PENITENTIARY

PREPARED BY DR. PAUL L. SCHROEDER, CRIMINOLOGIST, AND DR. ROY G. BARRICK, PSYCHIATRIST, AND SUPERINTENDENT OF CLASSIFICATION[1]

NOTE.—The first sample is a summary of the record of a young offender who, after being originally studied for classification, was returned for reclassification on two occasions, pending hearings for parole violation before the parole board. The second sample represents the classification report on an older, more settled, first offender, who was a victim of circumstances. This report is compiled from the data assembled according the newly installed (1939) system of records. Sample 3 contains the social-background record of an offender who makes theft his profession. Except for minor changes to preserve anonymity, the information is reprinted in exactly the form it appears on the new record forms. Sample 4 gives the results of the findings from the psychological examination of a Negro offender. Sample 5 is a special report from the Detention Hospital on an inmate who found difficulty at first in making a satisfactory adjustment to prison. Sample 6 records the action taken on the request of an inmate to be moved from the old to the new prison. Sample 7 contains a statement, just prior to release, regarding the disposition of an aged, mentally defective prisoner who has been given to a migratory existence and has lost connection with his kin. While all these records and reports are reprinted just as they appear in their original form in the record files, except for deletions to preserve anonymity, it should be understood that the samples (3 to 7) do not comprise the complete set of record forms which are now in use to facilitate the work of the diagnostic depots. The samples were selected merely to give some idea of the type of information obtained and the type of service rendered by the diagnostic depots of the Illinois penitentiary system.

Sample 1

CLASSIFICATION REPORT (October 19, 1933)

Inmate pleaded guilty along with _____ of having entered a store downstate and having taken cigarettes from it. (Sentenced one year to life.) He admits his guilt

[1] The classification work in the penal institutions of Illinois comes under the Division of the Criminologist, of which Dr. Schroeder is head. At present writing, the penal institutions of Illinois are serviced by two diagnostic depots: one located in the old prison at Joliet and the other at Menard. Dr. Barrick is the superintendent of the unit at Joliet. The other personnel of the Joliet Diagnostic Depot is as follows: Dr. Samuel B. Broder, psychiatrist; Dr. Kurt Hohman, psychiatrist; Mr. Donald Clemmer, sociologist; Mr. Wilson Meeks, sociologist; Mr. A. A. Hartman, psychologist. The members of the staff of the Menard Diagnostic Depot are as follows: Dr. Solomon B. Myerson, psychiatrist and superintendent of classification; Dr. Frederick Pollock, psychiatrist; Mr. Raymond Groff, sociologist; Mr. Albert Welge, sociologist; Mr. Maurice Lorr, psychologist. The sample reports and records were taken from the Joliet unit.

of it now and states further that he also stole an automobile in order to pull off the burglary. "Just took a notion to do it." He says his rap-partner suggested stealing the car. There is no previous record of delinquency reported.

Factors contributing to the delinquency seem to have been idleness, a broken home in which there was discord between himself and step-father, delinquent companions, and hanging around in speakeasies. His real father is dead. His mother, step-father and two siblings are living. His step-father is said to drink excessively. He went to the tenth grade in school. He belongs to the Methodist Church. His work record was probably regular until about one year prior to his arrest.

Physician's report indicates height 5'8¾", weight 142#; does not indicate disease or handicap. Dental report indicates need of fillings and extractions. Medical history is negative. Wassermann is negative.

Classification: First offender, mild egocentric personality, average intelligence. Dental infection. Inmate does not seem to be a confirmed delinquent and the outlook for successful extramural adjustment should be encouraging provided he may have work and be supervised generally.

Recommendation: Transfer to Illinois State Penitentiary, Pontiac. Inmate should be referred to the mental health office for examination by the psychiatrist and psychologist in reference to vocational guidance and placement in the institution It seems desirable to train him in a gainful trade or occupation so that he may earn an adequate living when released. The dental condition should receive the attention of the dentist as soon as possible.

MENTAL HEALTH REPORT (September 17, 1934)

This white boy, born in Iowa of native parentage, was sentenced to the Illinois State Penitentiary at Joliet on _____ by the Circuit Court of Peoria County on a plea of guilty to the crime of burglary and larceny and was transferred to this institution on _____. His associate on this crime, _____, is in the State Penitentiary at Joliet. The actual crime consisted of breaking into a store and stealing a carton of cigarettes valued at $7.50. This boy has no previous criminal record. He has adjusted satisfactorily since his admission to this institution. At the present time, he is assigned to the apprentice school barber shop.

Inmate's mother had been married prior to her marriage to his father. She has one child by her first marriage who is at present married and living with his wife. She was separated from the subject's father around 1917 and remarried sometime later, having one child through this marriage. The mother, step-father and half-sister are living together at _____ Street, _____, Illinois at the present time. The step-father is employed as a common laborer and the family is self-supporting. Inmate lived with his mother at the above address prior to arrest.

The principal of _____ High School states that he left school at the age of sixteen years while attending the second year of high school. He states that he formerly worked as a clerk and coal miner and had been out of employment about three months before arrest on the present charge. Psychometric tests indicate high average intelligence. His chief ambition is to own a barber shop of his own. He attributes his down-fall to bad companions. Physical examination and blood tests are negative. This is a first offender who shows a mild egocentric personality and average intelligence. He has previously gotten along well in community life and was

probably influenced by his associates on the present offense. His behavior and attitude here have been good and we are inclined to feel that he could make a successful parole under the usual supervision.

FIRST RECLASSIFICATION REPORT (May 28, 1937)

Behavior on Parole: Inmate has no previous record. When he was received here on _____ on a charge of burglary he was classified for Pontiac and paroled from that institution on _____. Having been paroled, he went to live with his mother in their old neighborhood in Peoria. His parole job was that of a barber but he earned only $11 or $12 per week and quit this after five weeks of employment. Since that time he claims he has been regularly employed but for the most part on very short term jobs. In recent months he has been a member of the teamsters' union and receiving the regular salary of $30 per week driving a truck. We do not have the report of his parole officer but he tells us that on his last job he did not tell his employer he was on parole and was given an assignment to drive a truck outside of the state. Not being able to immediately contact his officer he took the chance of going out and was reported. His officer placed him in jail for six days and then released him with very strict orders that he was not to go anywhere for a period of time. He did not allow him to go to see his mother on mothers' day so in order to let his mother know why he did not come he went out looking for his sister to send a message to his mother through her. The parole officer caught him violating his special instructions and returned inmate to this institution. It would seem that if his report is true the treatment is rather severe.

Review of Social Factors: This 23-year-old boy is the second of three siblings born in a small town. The mother and father were separated when he was 18 months old and his mother remarried when he was 15 years of age. Since his release the mother was separated from her second husband and it seems that before the separation took place there was considerable domestic trouble and the inmate is now quite hostile towards his step-father. In general the home situation seems to have been rather disorganized. He quit school when in the second year of high school at the age of 17. A report from the high school states that he failed in all of his high school work and the superintendent seems to have been unfavorably impressed with the boy. However, he states that his attendance was fair and that there were no particular difficulties outside of poor scholastic standings. Upon his first admission his work record was characterized as regular although he had been unemployed for a considerable period of time before his admission. Since his parole he worked regularly at a good salary although the jobs were of short duration. He was married in 1935 to a girl one year his junior. At first they established housekeeping for themselves but when she developed difficulties during pregnancy they moved to her parents' home. This brought about considerable domestic difficulties and the inmate did not adjust with the in-laws. He, however, claims that he gets along well with his wife.

We are here dealing with a well mannered young man who apparently has had very little criminal experience and displays no well defined criminal attitudes. If his story is true we feel that his return to the institution was unwise and that he should be reinstated upon parole.

_____, Sociologist

Psychiatric Summary: Inmate was paroled on _____ from Pontiac and was returned to the Diagnostic Depot at Joliet on _____. He is said to have been sentenced to jail for being out late but states that this is not true. He does admit being out late occasionally and visiting taverns but explains that it was

not a habit. He was married and living with his wife but had no children. He got along quite well with her but there was some conflict with his wife's father because he razzed our inmate about being an ex-convict. Employment had been irregular as a truck driver. Because of his wife's confinement, the loss of a baby, and her need of hospital treatment, inmate got into debt and was rather hard up. Regarding being out late nights inmate states that he and his wife would attend shows, dances and go visiting but that he was not bumming around or hanging around taverns. Excessive drinking is denied. Inmate passed through the Diagnostic Depot in _____ and was regarded as a mild egocentric person with average intelligence, and a first offender. It was thought that the outlook for successful extramural adjustment might be encouraging providing he might have steady work and supervision. A later report from Pontiac confirmed the original findings and impression. At this time the medical examination does not indicate disease or defect. There is no complaint of ill health. Psychological rating is average. While our inmate is mildly egocentric, as previously noted, it does not seem to be an offensive trait. Nor does he manifest anti-social attitudes. There seems to have been some friction between the inmate and his father-in-law but not serious trouble. The main problem seems to have been the economic one.

Classification: Improvable. Problematic prognosis.

Recommendation: (PONTIAC), if declared to be a violator. If there are no contra-indicating factors it is suggested that the inmate might be tried out on parole again with help to iron the in-law problem out, with adequate employment so he could keep his wife and pay obligations, and fairly close supervision.

Chairman
Classification Board

MENTAL HEALTH REPORT (January 14, 1938)

This white inmate was originally sentenced by the circuit court of Peoria County for the crime of burglary and larceny, under a sentence of from one year to life. He was granted a parole from here on _____ and returned _____, following a minor violation. According to our files he is a first offender. The Parole Board declared him a violator and continued him to make grade. His case now appears on the docket for _____.

Inmate is employed in the barber shop and is making a satisfactory institutional adjustment. There are no physical complaints and no evidence of mental disease. Intellectually he is average, and does not present any gross personality defects. The classification board placed him in the improvable group. Problematic prognosis

SECOND RECLASSIFICATION REPORT (December 23, 1938)

Behavior while on Parole: This man was originally committed to Pontiac on _____ on a charge of burglary and larceny and under a sentence of one year to life. He received his first parole on _____ and at that time went to live with his mother and worked as a member of the Teamsters' Union, earning approximately $35 a week driving a truck. His violation that brought him back on _____ seems to have been of a technical nature in which there was a disagreement between the inmate and his parole officer, as well as his driving a truck out of the State without permission. He was given grades on this occasion and resumed parole in _____ of _____. According to his story, this second violation grew out of an arrest as a suspect in several tavern hold-ups. He staunchly denies

his guilt, claims that he was not in a tavern since his release and that he knows nothing about the hold-ups. He says that two of the police officers have it in for him and they told him they had enough charges against him, that they would indict him on each charge, and hold him at least a year in the County Jail. He, therefore, says that he would rather come back as a violator and take his chances with the Parole Board. While on parole this last time he worked regularly for the _____ as an assistant surveyor in _____, Illinois.

Review of Social Factors: This 24-year-old is the second of three siblings born in _____, Iowa. The family was broken when our inmate was but 18 months of age. Since that time his mother has remarried on two occasions, the last marriage occuring in 1935. The home situation was quite disorganized and our inmate did not get along with either of his step-fathers. He says that while he attended grade school he got along very well, but when he reached the high school level, he failed in all his subjects during his second year, leaving at the age of 17. His work record, prior to his first commitment was all for his step-father in the _____ Company and this, after approximately a year of unemployment. His parole jobs are shown in the first paragraph and have been quite regular. In 1935, he married a girl one year his junior with whom he claims a fair adjustment while they had their own residence, but when they moved in with in-laws, domestic difficulties began and finally culminated in separation. He claims that he did not see his wife at all during this last parole. His recreational interests included athletics in general, cards and an occasional show. He admits drinking on occasions, but says that he does not use alcohol to excess.

We are dealing with a 24-year-old who, in 1937, was classified as a situational offender, who has had very little criminal experience, with no well defined criminal attitudes. We concur in this classification and feel that there is a possibility that his "cocksureness" and perhaps caustic tongue make it more difficult for him on parole than the ordinary man, and agree with his suggestion that he be paroled to relatives in Iowa rather than attempt to resume parole obligations in Peoria.

_____Sociologist

Psychiatric Summary: This is the second violation of parole for our inmate. He was admitted originally on _____ and was classified as a first offender, mildly egocentric, average intelligence, and was segregated at Pontiac. Attention was called to a difficult home situation in which he was having discord with his step-father. When returned for the first violation, he had been staying out late visiting taverns. He had married and was having conflict with his father-in-law, who razzed him for being an ex-convict. It was thought that while he seemed mildly egocentric, that it was not an offensive trait when he himself was understood properly. He was placed in the improvable group, a problematic prognosis was offered and he was returned to Pontiac, from which institution he was paroled again. He has been returned this time because of a charge of stick-up. Inmate denies guilt of committing any crime but admits signing the confession because the chief of police told him that other charges would be pushed if he did not sign that one. He admits being with a person who, he says, is out on bond. This inmate ascribes all of his trouble to family affairs and prejudiced officers. He and his wife were not living together. He has always experienced difficulty understanding his mother and being understood by her. He states that his father's people live in Iowa, that she has always kept him from knowing anything about them. He cannot sit down and talk with her as a son should speak with his mother. Also, he makes complaint against the parole officer who he feels was prejudiced against him. He tells, too, that the policeman who

arrested him used vile language in the presence of his mother. He claims to have had steady employment. He admits occasional drinking too much. It would require much more information of a social nature and more extended personality study in order to thoroughly understand this young man and his problem. Off hand, he impresses one as being cock-sure, stubborn, evasive and argumentative. Without doubt, these traits make an unfavorable impression upon those with whom he has to deal and lead to summary treatment but when one talks with this boy at some length, he does not mean to be bull-headed or cock-sure. Quite likely these traits of personality have been acquired as the result of a maladjusted parental home situation and are reactionary or compensatory to innate feelings of inadequacy. This boy is really starved for the love and understanding which only a father and mother can give. It is likely that he would be able to do much better and show considerable improvement if he could be dealt with in an understanding and sympathetic manner. As we see him today we would continue a classification of mild egocentricity and would regard him as maladjusted, but we do not think of him as a confirmed, vicious, hopeless criminal. We entertain hopes that if he could have an understanding and sympathetic type of parole treatment and could be reunited with his wife, without interference on the part of relatives, he would likely be able to adjust in due time.

Classification: Group III: without psychosis or mental defect. Egocentric personality; superior intelligence. Improvable group. Problematic to doubtful prognosis.

Recommendation: (Stateville Division), if declared to be a parole violator. This boy states that his father's people are living in and around _____, Iowa. He wishes very much to have another chance to make a parole out of state, hoping that he may get away from local conditions which he feels are against his best interest, and he believes that his people in Iowa will be willing and able to give him aid. It is suggested that the Parole Board investigate the possibilities of an out of state parole for this young man. While in the institution he should have a chance to further his education or learn a trade.

_____

Chairman
Classification Board

Sample 2

CLASSIFICATION REPORT _____, 1939

JDD No.: Name: DOE, John Age: 36 Admitted: _____, 1939
Crime: Robbery Sentence: 1–20

1. References.
2. Criminality.
3. Social Factors.
4. Personality characteristics.
5. Classification.
6. Prognosis.
7. Recommendations.

FINAL SUMMARY

1. Interviews with inmate. Reports of the State's Attorney of Cook County, Chicago Crime Commission, Federal Bureau of Investigation, Prison Physician and Prison Dentist. Correspondence with Mrs. John Doe, wife of inmate, Mrs. Charles Doe, mother, Mr. John Roe, friend, and the Chicago _____ Co., employer.

2. On _____, 1939, John Doe was found guilty in a bench trial of plain robbery and application for probation was denied and he was sentenced to the penitentiary for a term of one to twenty years by Judge _____. On _____, 1938, at about 10:15 P. M. John Doe armed with a gun entered a gas station at 1300 W. _____ St., forced the owner into the washroom, taking $34.33 from him. John Doe was captured on _____, 1938 when he attempted to hold up a service station at _____ _____ St. and the attendant, noticing that the gun was a toy pistol, slugged him with a milk bottle. Doe admits these robberies and eight others in the same neighborhood. Says that he was desperate for money to pay off his gambling debts and that he used a toy pistol in all these robberies. He has no previous record.

3. John Doe was born of foreign parents on _____, 1902 in _____, the youngest of three siblings. His parents came to the United States in 1905 and inmate has lived on Chicago's South Side ever since in the vicinity of _____ and _____ St's. in a low rental residential area. His father was a well-to-do bricklayer and his home seems to have been a rather strict foreign home, his wife saying: "My husband got along with his brothers and sisters all right but they did not seem to confide in one another as most families do. His father was very strict and it caused him to sort of fear his father rather than help him. There was not the right understanding there." He went as far as the eighth grade at the _____ school at _____ and _____ St's. quitting in 1919. According to his mother he was always happy-go-lucky, "liked music and singing," was interested in all sports, especially baseball and wanted to be either a carpenter or a baseball player. After working as a clerk for the Chicago _____ Co. and at a grocery store he put in a season in 1922 as a pitcher for the _____ Baseball team but had to quit when he hurt his shoulder. He then worked for the _____ and _____ Carpenter Shop as a carpenter at _____ and _____ St's. until 1929. Since then, _____, 1929, to _____, 1938 he has worked for the _____ Co. as a _____ and had a good record, averaging $140.00 a month.

He was married on _____ ____, 1926 to a woman five years his junior, has three children and seems to have had a good family life, his wife saying: "He was an upright man and a good father." His recreation seems to have been centered around his family, taking them to movies, to watch sporting events, and playing cards at home. His wife, however, says: "His weakness was gambling and when he got whiff of some place like that his thriftiness left him." He played the horses and also shot craps. He was in trouble once before in 1933 when he went in debt but finally managed to clear it up. Lately he was involved in gambling again and got in trouble this time when the loan companies from whom he had been getting money threatened to garnishee his wages.

This is a man of good family who has made a good social adjustment as a street car motorman and has been well thought of by his family, employers and neighbors. This crime is a situational one brought about by the pressing of loan sharks which, in turn, was brought on by his gambling, and seems a result of his weak will and tendency to be easily led by others.

Sociologist.

4. John Doe has made the impression of being a relatively inadequate person of the dependent type, a person who does not find it easy to seek advice when in trouble and is inclined to keep his problems to himself, for which reason he has made stupid blunders. He has been a steady, plodding worker who leaned on his wife for moral support and stability. An expression of his weakness was gambling, a desire for which he could not control and as a result of which he got involved with loan companies who harassed him for payment of money borrowed for gambling purposes. While in the Depot he seemed conscience-smitten, tearful, ashamed, and low-spirited. He was sentimental in regard to his family for whom he expressed fond devotion and felt that he had wronged them. It was pointed out that his work record was stable as a motorman for many years, also that his family life was satisfactory. His offense against the law was ascribed to a weak will and a dependent attitude rather than to any antisocial feeling or tendency. His wife has spoken well of him. She stated that her husband grew up under a very strict father whom he feared and that there was not "the right understanding there"; also that a maternal aunt has been in a mental hospital on several occasions. There would seem to be sufficient evidence, then, based upon clinical studies and social history, to substantiate an opinion that this inmate is not a bad person, that he is a family man who plods along good naturedly, works well, treats his family with love and respect, and behaves himself generally; but that he is somewhat inhibited, weak, dependent, deficient in stamina and inclined to step over the traces now and then by drinking a little too much and indulging in gambling—behavior which he has not strong enough will to control when he gets started and which illustrates his inadequacy. The medical report indicated some involvement of the heart but was otherwise reported negative, including a negative Wasserman test on the blood.

5. Group III: without psychosis or mental defect. Improvable offender. Inadequate personality; mild alcoholic tendency; heart lesion; low average intelligence (Army Alpha score 66).

6. So far as this man's essential traits are concerned, he should prove to be a favorable parole risk, especially so in view of his family ties and steady work record; but in consideration of his personality weakness, a problematic prediction may be better indicated. He is the type of person who will be keenly impressed by disciplinary treatment and the humiliation of coming to prison. It may be, as is often the case, that one year in prison will be sufficient to impress this man with the seriousness of his drinking and gambling tendency so that he will be cured once and for all. On the other hand, he may develop a chronic discouragement, lose confidence in himself, and experience difficulty in redeeming himself in his own estimation and in gaining lost social status. His wife appears to be an understanding woman and he has much respect for her. This being so, it is likely that she will be a very important stabilizing influence while he is here and after he returns home. Perhaps this is an instance of where "All Work and No Play Makes Jack a Dull Boy"; if so, as we suspect it to be, John Doe will be much benefited by recreational activity while in the institution, and with his family after he gets home. Extended imprisonment will likely break this man down mentally, for which reason the prognosis will be conditioned upon the term of imprisonment.

7. Stateville Division. Inmate needs to relax, forget his troubles, and step out of his narrowed life into a larger sphere of interest and activity. This can be aided by encouraging him to participate in recreational affairs, by attending church services and the movies, and by his mingling with the better types of prisoners. It is suggested, therefore, that he be placed with cellmates who are good natured, optimistic and stable. He has had some experience at carpentry and would like an opportunity to improve himself with this kind of work, for which reason it might be desirable for him to be assigned to the furniture shop. If he should become mentally depressed, discouraged, or unstable, as he may do, psychiatric consultation should be sought at an early time. His physical condition should be reviewed by the medical department, with particular reference to the condition of his heart. He ought not to be assigned to any manual labor until this is done and the doctors approve of the kind and amount of labor he may do.

Chairman
Classification Board

Sample 3

DIVISION OF THE CRIMINOLOGIST
ILLINOIS STATE PENITENTIARY

I. IDENTIFYING DATA

Reg. No._____ Date Admitted -/-/39

Name DOE, Joe Age 29 Aliases Richard Poe

Color white Race Foreign Descent Nativity -/-/09

Crime Burglary Sentence 1-life Associates 00002, 00003, 1 girl.

Times here 2, Pon., Jol. Violator No Escape No Wanted No

Official Reports: States Attorney X Crime Commission X Parole Dep't_____ F. B. I. X

Comments Arrested 11/22/38--offense 11/5/38. Bench trial—Judge.

II. SOCIAL FACTORS: YOUTH

FAMILY:

Name	Age	Birthplace	Marital	Occupation
Joe (inmate)	29	Chicago, Ill.	yes	
Fa: F——	64	Europe	yes	Carpenter, relief, WPA.
Mo: B——	60	"	yes	Housewife
8 siblings.		Chicago, Ill.	Div.	Odd jobs, truck driver
		"	yes	Barber, Cab Driver, WPA
		"	no	Restaurant, busboy
		"	no	Ill. St. Pen. (Pontiac)
		"	Div.	Clerical

Insanity-Inebriety-Disease 3 brothers Pontiac, 1 brother Joliet, brother-in-law Joliet.

HOME: Social Aspects Extremely disorganized, delinquent traditions of long standing in family, culture conflict, poor supervision in home, lack of parental control.

Age left _____ Why _____

Economic Aspects _____

RESIDENCE 1400 W ——— 1–7 yrs., 1600 W ——— 8–12 yrs., 848 N ——— 13–17 yrs. Mobile since, bumming trips or incarcerations.

Area Evaluation Low rental, delinquent and deteriorated, immigrant area.

Delinquency Rate

SCHOOL:

Name	Type	Location	Grades	Adjustment
———	Pub.	——St. Chicago	1–6	very poor
C & C. C. S.	Corr	Chicago, Ill.	6 (6 mos)	
St. Charles	"	St. Charles, Ill.	6–8	Both truant and
Pontiac	"	Pontiac, Ill.	9	incorrigible

Age Left 16 (St. Chas) Date Left 1925 Later Education Corresp. (Fed. Penit.)

Intelligence Ratings Here: Binet _____ Army Alpha test: Superior Intel. B125

LEISURE TIME: Delinquent behavior (junking, R.R. trespassing). Baseball, shows, swimming.

Work, Ambition, Perspective No insight as to future.

Religious Training Cath.

Reg. No._____

III. SOCIAL FACTORS: ADULT

Work:

Employer & Address	Tenure	Duties	Wages
Bro-in-law ——— Ill.	2 wks 6/38	helper truck	$15 per week
——— Rubber Co. ——— St., Chi.	6/27-10/27	Factory	$18 " "
——— Co. ——— St., Chicago	11/27-2/28	Factory	$17.50 "
(both verified)			
Himself ——— Chicago, Ill.	5 mos, 1926	Sales office	$18-20
Other jobs between incarcerations	for one or two	weeks duration as	painter, garage
helper, helper on truck, etc.			

Occupational Classification small factory—unskilled. Unions No

Economic Condition Very irreg. emplym. Dependent Idle Before Crime 4 mos.

Relief Family. Relief Employment Father and Brothers WPA.

MARITAL STATUS:

Wife Mary Doe Age 26 Date Wed 1931 Where Chicago

Address 1600 ——— St. Where Now 2400 W ———

Adjustment Poor—Divorced 1935 after one year separation.

Children No. Own____ Step____ Adopted____

Previous Marriages No. (1) (2) (3) Sep___ Wid___ Div___ C. Law____

Comment_____

RESIDENTIAL RECORD:

Last Address 2840 W ——— St. Type Flat Assoc. Bro. Time 4 days.

Previous Address 3200 W ——— St. Type Hotel Assoc. Alone Time 3 weeks.

Predom. Neighborhood Mobile since discharge. Sections of anonymity, room-hs, etc.

Mobility High since early conditioning in Chicago.

Evaluation No stabilizing influences. Citizen yes — Father yes.

Time in U.S. Life Immigration No In State Life In County Life City Life

Address of Responsible Relative: Name Father Address 1600 W———

LEISURE TIME:

Activities Music (saxophone and clarinet), reading, baseball games.

Affiliations None Church Cath.

Habits: Liquor Mod. Beer Venery Gambling No.

Comments

SOCIAL STATUS: Position, Perspective Thief, no prestige in community on normal level and any position achieved by criminal career—Poor insight into past life and practically hopeless future. Family disorganized and constant poverty.

HEALTH RECORD:

Childhood and Youth Scarlet fever, Measles, Mumps, Chicken pox, Diphtheria.

Later Health O. K. — hemorrhoids.

Serious Illnesses-Operations-Injuries No

Sexual Adjustment Normal Perversion No

Gonorrhea 1931 Syphilis No Drugs No Liquor Mod. Wasserman Neg.

Complaints Teeth in bad condition.

IV. CRIMINOLOGICAL FACTORS

RECORD:

Institution	No.	BI	SA	Crime	Sent	Admit	Par	Dis	Tenure
Joliet			X	Attempt Burglary	1-5	1934		X	3-9-0
Federal Penit.			X	Dyer Act	2 yr.	1930		X	1-6-0
Pontiac			X	Car. Conc. Weapons	6 mos	1932		X	0-6-0
House of Correct.			X	Burg. (red. p. larc)	4 mos	1928		X	0-4-0
" "				Disorderly cond.	1 mo &	$200 '25		X	0-3-0
" "				" "	5 mos	1926		X	0-5-0
St. Charles				Larceny Auto	18 mos	'23-24		X	1-6-0
Chi. & Cook Co. Boys School				Incorrigibility	6 mos	1923		X	0-6-0

Previous Arrests 25 *Probations* 1 *Violations* 0 Escapes 6 (St. Chas) Total 8-9-0

Wanted _____ Suspected _____

Additional Items - Arr Dis Cond $200 & c., Arr Susp. Larc Auto. Arr —— Ill. Vag. Grand Jury $10,000 bond, Arr —— Ill. Larc; Arr —— Ill. Burg. (no bill), Arr Burglary (bond forfeiture).

PRESENT OFFENSE: Inmate's Account Hazy and unconvincing story about crime. Admits knowledge but states he protected sister. Says he could have "beaten the rap."

CRIMINAL ETIOLOGY Steadily maturing in crime since 12 years of age from petty juvenile delinquencies until now it is practically impossible for him to adjust in a normal way without stealing at every opportunity. Constant companionship with delinquent companions. Well defined criminal philosophy -- deep rooted delinquent attitudes.

Technique Advanced

JUDGMENT OF CRIMINALITY Advanced offender -- persistent delinquent behavior -- stealing as a profession.

Motive - Gain Rating

V. ADDITIONAL DATA AND SUMMARY

I. All of the male siblings in the Doe family have been involved in delinquent behavior and five brothers have been incarcerated in penitentiaries for offenses varying from larceny to murder in an attempted hold-up. Delinquent traditions passed from brother to brother.

II. Factors influencing his participation in crime.

1. Constant residence in deteriorated slum areas of high delinquency rates.
2. Brothers active in crime.
3. Association with delinquent companions.
4. Definite anti-social attitudes.
5. Extremely poor insight into situation.
6. Delinquent influences in institutions as well as in neighborhood.

III. This is an alert, intelligent heavy set young man who is pleasant during an interview. Lack of ambition plus hopeless attitude toward employment, marriage, etc., also influence this man to enter crime as a career.

Sample 4

DIVISION OF THE CRIMINOLOGIST
ILLINOIS STATE PENITENTIARY

PSYCHOLOGICAL EXAMINATION

Inmate DOE, Charles No Age 27 Color Black Date / /39

	Score	Mental Age	IQ
1939 (Mar. 27) Army Alpha, Form A	12	10y 1m	67
1939 (Mar. 28) Stanford-Binet, Form L		10y 3m	68
1939 (Mar. 28) Arthur Performance Scale		9y 7m	64

Classification: High Grade Mental Defective.

Discussion: This 27 year old, Texas-born Negro, stated, on the literacy test, that he had completed tenth grade in school, but when interviewed later admitted that he had only finished fourth grade. He states that his schooling was irregular and claims that he was "good in learning." He repeats this a number of times during the examinations. He claims also to have been a garage mechanic for five or six years and an expert shoe-maker for about four years. This seems exaggerated in view of the test results. He gives the impression of being evasive, boastful, and attention-seeking.

During examination he cooperates satisfactorily. His responses are hesitant, variable in quality, and, at times, confused. He shows poor insight and is easily satisfied with poor responses. In the Stanford-Binet the vocabulary is comparatively high (12 year level). He reads well and shows good retention of the reading passage. His general comprehension is poor. Note that he obtained scores on all but two of the subtests in the Alpha. In the Performance test the median test level is 8 years 6 months. All of the test results agree and indicate that he is reliably classified in the upper limit of the Mental Defective group.

This man seems unusually inadequate in his general response, even for an individual of this mental level. Ordinarily, Negroes with a mental age of ten years, as we see them here, are much more effective during examination. It is suggested that the Stanford-Binet or Alpha be repeated at a later time. Inmate has probably reached the limit of his capacity for formal training and no further academic schooling is recommended. A routine work assignment, possibly in the shoe shop, is suggested.

Sample 5

DIVISION OF THE CRIMINOLOGIST
ILLINOIS STATE PENITENTIARY

SPECIAL PROGRESS REPORT

Inmate DOE, William No _____ Age 38 Color White Date / /29

This inmate has been in Detention Hospital for the past six weeks where he has been under observation because of his being emotionally unstable, keyed-up, restless and irritable. He was inclined to feel mistreated and adopted an attitude of superiority which was felt would make it difficult for inmate to adjust to regular prison routine. Under general hospital care he has toned down considerably and seems anxious to do his time in as agreeable a manner as possible. He no longer harbors any feelings of persecution against society in general. He has superior intelligence and abundant physical and nervous energy. He will do well in any general assignment but probably would be best placed in some clerical or office position.

Recommendation:

Discharge from Detention Hospital. Assign to a suitable occupation such as office work. He needs to have some general out-of-door recreation and reading facilities.

Sample 6

DIVISION OF THE CRIMINOLOGIST
ILLINOIS STATE PENITENTIARY

FOLLOW-UP INTERVIEWS

Inmate DOE, Jack No _____ Age 26 Color White Date / /39

Prison Old Prison Assignment Fibre Shop Request X Referred _____ Routine _____

Problem _____

Transfer to Stateville.

This man has been at the Old Prison 29 months on a one year to life sentence and is due to see the Board in May 1939. He states that he was transferred from Pontiac because he planned to escape on two occasions. In the first of these he made a ladder in the sheet metal shop, and on another occasion he planned to escape through a tunnel. At present he is assigned to the Fibre Shop and is laying in. He states he has been in the Hole two times for fights and arguing.

He requests transfer to Stateville on general principles, mentioning his desire to learn a trade and the sanitary conditions. Note that he was classified here as an occasional offender, questionably improvable and recommended for transfer to Pontiac.

In view of the admitted attempted escapes it seems questionable that transfer to New Prison will be considered for administrative reasons, but since the inmate seemed somewhat depressed he was advised, as a temporizing measure, to put in a request again after seeing the Board.

Recommendation: No action at this time.

Sample 7

DIVISION OF THE CRIMINOLOGIST
ILLINOIS STATE PENITENTIARY

RELEASE PROGRESS REPORT

Inmate ROE, Richard No_____ Age 60 Color White Date / /39

This inmate was admitted on _____ _____, 1937 to serve 1–2 years for attempt to burn public buildings and will be due for discharge from prison on _____ _____, 1939 by reason of expiration of sentence.

This man is at present employed as a runner carrying water and fuel supplies to the towers. His institutional adjustment has been uneventful. On formal psychological tests his rating is that of mental defective with a mental age of nine years and an I.Q. of 60. During the interview he was orderly, pleasant and cooperative. In the event of his release from the institution he intends to go to Iowa where he says he has many relatives. Following is a summary of his social background.

Inmate is about sixty years of age but is uncertain as to the date of his birth. He states he has four brothers and five sisters and all are living as far as he knows. He has, however, had only one contact with them in the past thirty years. During his early youth the home was organized but the economic position was never better than marginal. Both parents are dead. He first left home at the age of fifteen and since that time has drifted about the country as a migratory laborer and for many years has worked only very occasionally for very short periods of time. He tells that he completed the fourth grade at the age of thirteen. His school attendance was also very irregular because he frequently stayed home to work. He has practically no work record having been a transient for many years.

This man is a mental defective without psychosis. It is questionable whether he will be able to make an extramural adjustment without considerable help and supervision. We recommend the filing of a feebleminded petition alleging feeblemindedness and commitment to an appropriate institution.

APPENDIX H

SAMPLE RECORDS FROM STATE OF ILLINOIS DIVISION OF PARDONS AND PAROLES; PREDICTION REPORT OF THE SOCIOLOGIST-ACTUARY, ILLINOIS STATE PENITENTIARY, JOLIET-STATEVILLE BRANCHES

BY SAM DAYKIN, SOCIOLOGIST-ACTUARY

CASE A.

Factor	Item	Fav.	Unfav.
1. Type of Offense	Embezzlement	#	
2. Sentence	One to ten years		—
3. Time Served	One year	#	
4. Age	Thirty-six years		—
5. Nat-Rac. Origin	American-White	#	
6. Type of Offender	First	#	
7. Criminal Record	None	#	
8. Punishment Record	None	#	
9. Home Status	Superior	#	
10. Family Interest	Active	#	
11. Marital Status	Divorced		—
12. Social Type	Marginal	#	
13. Work Record	Regular	#	
14. Working at Arrest	Yes	#	
15. Last Assignment	3-D store	#	
16. Criminal Mobility	Resident	#	
17. Community	_____, Illinois		—
18. Neighborhood	Residential	#	
19. Use of Alcohol	Intemperate		—
20. Venereal Infection	None	#	
21. Parole Community	_____, Illinois		—
22. Parole Neighborhood	Doubtful		—
23. Parole Job	Doubtful		—
24. Number of Associates	None		—
25. Mental Rating	Superior		—
26. Personality Rating	Inadequate	#	
27. Psychiatric Prognosis	Problematic		—
	Total	16	11

This inmate is in a class in which 29 per cent may be expected to violate the parole agreement. 15 per cent may be expected to be minor violators. 14 per cent may be expected to be major violators.

Offense: A. was received at Joliet on October 16, 1937, from _____ County. He pleaded guilty to embezzlement and was sentenced from one to ten years.

According to the State's Attorney's report, for a period of nine months prior to December 27, 1936, A. had been employed as a salesman for _____, beer and liquor distributors, _____ Illinois. A. had been interested in a woman by the name of _____ _____, whom he met frequently at various taverns, and became intimate with her. For several months A. had been addicted to the use of intoxicating liquor to excess, and started using money which he collected for his firm for his own use. In the month of December, 1936, he persuaded his father and mother to mortgage their home for $1,100.00, the greater part of which they turned over to A. During the month of December he made several payments on his automobile and bought himself some new clothes with the collections which he made the day before Christmas. On December 27, 1936, he left his wife $1.00, telling her that he was going to Chicago to look for work. Instead, he and _____ _____ left for _____, Washington. He worked for a short time at _____ and then went to _____, Oregon, where he abandoned his car. He then went to _____ _____, where he obtained a job with the _____ Co. as a salesman. On July 27, 1937, he was arrested at _____, California. He was living with _____ _____ at _____ _____, California, under the name of _____. Following his disappearance from _____ _____ an investigation of the company by whom he was employed showed a shortage in his accounts of $809.70. After his return to _____ from _____ he admitted being short about $500.00 in his accounts. A. professed considerable penitence and chagrin, and claimed that he was sorry, first, for his wife and baby, second, for the girl who was involved, and third, for his own situation of being incarcerated.

Criminal Record: According to available information, he has no known previous criminal record.

Institutional Record: He has no punishment reports for violation of institutional rules. He is assigned to 3-D store.

Family Background: This thirty-six year old white inmate born at _____, Illinois, on August 25, 1902. The parents, _____, now sixty years old, and _____, now sixty-three years old, were born in Illinois. They married at _____, Illinois, about thirty-eight years ago. They have never separated, and now live at _____ _____, Illinois. The father is now working on WPA. Previous to this he operated gasoline filling stations. He was always a steady worker, and provided adequately for his family. The parents own the five-room bungalow in which they are living. The inmate is the oldest of three children. _____, thirty-four years old, lives with her husband, _____ _____, a painter, and one child at _____ _____ _____. The inmate receives weekly letters from his family and visits once a month.

Mobility and Neighborhood Background: He lived with his parents in _____, Illinois, until he was fourteen years old, and then the family moved to _____, Illinois, where they lived for three years. In 1918, after a six months' stay at _____, the family moved to _____. In 1922, the inmate married, and left home. He lived with his wife in _____ for about five years, and in 1928 they moved to _____. The inmate remained in _____ until 1934, when his wife died. He then returned to _____,

where he remained until shortly before his arrest for the present difficulty. He last lived at _____, where he lived with his second wife. After he embezzled the money for which he was committed to this institution, he went to _____, Washington, _____, Oregon, and was living at _____ _____, California, when he was apprehended, and extradited back to Illinois.

Education: He graduated from the grammar school in _____, Illinois. He then went to the high school at _____ for two years, quitting at the age of fifteen years. He claims that he then attended the _____ _____ Business College in Chicago, at about the age of twenty-five years. Psychometric tests indicate superior intelligence. The inmate's mother reports, "_____ was always a very good boy with a wonderful disposition and always had good marks in his studies at school but after going through 8th grade he wanted to quit school and go to work but of course he was too young to get work and I had my heart set on his going through school so when he was in first year high he ran away from home. Was gone from Jan. until May before we found him, he was in Chi working at _____ basement and doing errands so we got him home and as soon as he was 16 his dad got him a job and was all right after he could earn money. We have two girls younger than he so couldn't give him much money to spend. I think his dad was always too easy with him. Never paid much attention to him or ever seemed interested in his school work or music. I was sick so much couldn't always look after him. But never did anything bad except skip school once in a while."

Marital Status: In 1924, at the age of twenty-two years, he married _____, twenty-one years old, at _____. He had known his wife for three years preceding the marriage. They lived together until 1934, when the wife was killed in an automobile accident. No children were born to the union. In 1936, at the age of thirty-four years, he married _____, thirty years old, at _____. The wife's father was assistant chief of police of _____ for many years, and is at present a candidate for sheriff of _____ County. The inmate and his wife lived together until the present difficulty. One daughter, _____, twenty-one months old, was born to the union. The wife and daughter are now living with the wife's parents at _____. The wife obtained a divorce in February, 1938. The inmate claims that she still writes to him twice monthly. She is employed as a clerk by the _____ of _____ County. For six months prior to the inmate's apprehension he was engaged in a common-law relationship with _____, thirty-six years old. This woman was a divorcee; her former husband was a foreman in a shoe factory. The inmate's former wife reports that the inmate indulged in alcohol to excess and frequently stayed out at nights. She reports, "The predicament that Mr. A. is in now is because of the liquor business that he was in and the evil influence of some of those he came in contact with during his visits to the different taverns. Some of his friends are of the contention that the accident and the death of his first wife have had some effect on him as he has always been of very good character and has never been into any kind of trouble whatsoever. This woman that he became temporarily infatuated with and took his offerings, knowing that he was a married man, does not have a decent reputation. She has been married several times and is just a common tavern harlot willing to take what she can get wherever she can get it. Our baby is almost two years old now and does not

remember her father. I would like to have him released so that he can give me some assistance in financing the raising of my child." The inmate's mother reports, "_____ never was himself after his first wife got killed in that auto accident. His second wife was different, running up bills, and he started drinking quite a lot."

Work Record—Inmate's Statement: From 1922 to 1928 he worked as an attendant in the filling station of Mr. _____, at a salary of $150.00 monthly. From 1929 to 1935 he worked for the _____, Inc., _____, Chicago, as a salesman at a salary of $165.00 monthly. For one year in 1935 he worked for the _____ _____ _____, Ind., _____, as a salesman at a salary of $30.00 weekly. From May to July, 1937, he was a salesman for the _____ _____, _____, California, at a salary of $130.00 monthly. He was working for this company when he was apprehended for his present difficulty.

Work Record—Verification: An inquiry addressed to Mr. _____ was not answered. The _____ reports, "A. was employed by us for a period of one year and was one of our most respected salesmen. The trade all liked him because he had a very good character and was a high type fellow. He was a victim of circumstances due to drink and women. We are of the opinion that he should have a chance to come back and I personally think if he gains his liberty he will make good." This letter was signed by Mr. _____, manager. The Diagnostic Depot reports that they are in receipt of a letter from _____ _____, Inc. which states that the inmate worked for them from February, 1929, to July, 1935. The general character of the letter is good. They would not re-employ him.

Personal Factors: He admits the intemperate use of alcohol since 1934. There is no history of venereal disease.

Postinstitutional Plans: He wants to go to _____, Illinois. Otherwise, he has no definite postinstitutional plans.

Parole Supervision: Very close parole supervision is recommended in this case.

CASE B.

Factor	Item	Fav.	Unfav.
1. Type of Offense	Manslaughter	#	
2. Sentence	One to fourteen years	#	
3. Time Served	One year	#	
4. Age	Forty-six years	#	
5. Nat-Rac. Origin	Canadian-American		—
6. Type of Offender	Recidivist		—
7. Criminal Record			—

_____ _____ School—larceny; _____ larceny; Chicago H. of C.—indecent liberties (1) disorderly conduct (1) twice fined—carrying concealed weapon (1), disorderly conduct (1); SP, Nebraska—attempt robbery: USP _____ stealing from mail boxes; USPA, _____ purchasing narcotics.

Factor	Item	Fav.	Unfav.
8. Punishment Record	None	#	
9. Home Status	Broken home		—
10. Family Interest	Active (Mother)	#	
11. Marital Status	Separated		—
12. Social Type	Socially maladjusted		—
13. Work Record	Casual		—
14. Working at Arrest	Yes	#	
15. Last Assignment	2-F-2 division	#	
16. Criminal Mobility	Resident	#	
17. Community	Chicago	#	
18. Neighborhood	Area two	#	
19. Use of Alcohol	Intemperate (drug addict)		—
20. Venereal Infection	None	#	
21. Parole Community	Chicago	#	
22. Parole Neighborhood	Doubtful		—
23. Parole Job	Doubtful		—
24. Number of Associates	None		—
25. Mental Rating	Very Superior	#	
26. Personality Rating	Inadequate	#	
27. Psychiatric Prognosis	Strongly guarded		—
	Total	15	12

This inmate is in a class in which 36 per cent may be expected to violate the parole agreement. 17 per cent may be expected to be minor violators. 19 per cent may be expected to be major violators.

Offense: B. was received at Joliet on October 19, 1937, from _____ County. He was convicted of manslaughter and was sentenced from one to fourteen years. According to the State's Attorney's report, on September 10, 1937, this inmate's common-law wife, _____, with whom he had been living for about five months, went to her home at _____ to visit. Later the inmate, who had been drinking heavily for more than a week, came to that address; and, apparently, without warning or provocation he repeatedly stabbed his common-law wife until her condition was so critical that she died shortly afterwards. B. neither admits nor denies that he committed the offense. He explains: "I bought a bottle of liquor. I had a hangover from the day before. It knocked me out of my head. I don't remember having an argument or anything else. She was cut. They said I did it. I was crazy drunk. It's possible I cut her without intending to do her any great harm."

Criminal Record: In 1904, at the age of twelve years, he was placed in the _____ Manual Training School for Boys by his parents, where he remained for four years. On August 4, 1909, he was sentenced to the _____ _____ School for larceny. He was there about eighteen months. On July 18, 1910, he was received at the _____ Reformatory at _____ under sentence of from one to ten years for larceny. In 1912, after serving thirty months, he was paroled. He was returned on June 19, 1913, for not reporting and not working. He was re-paroled on October 14, 1914, and was discharged in April, 1915; and on October 27, 1915, he was received at the _____ _____House of Correction under sentence of one year for indecent liberties

(delinquency of children). On December 22, 1916, he was arrested in _____, Nebraska, for carrying concealed weapons and was fined $200.00 and costs. In March, 1917, he was arrested in _____, Missouri, and held for investigation of highway robbery at _____. On May 3, 1917, he was received at the _____ Penitentiary at _____ for attempted robbery under sentence of from one to seven years. In 1918 he was sentenced to the _____ House of Correction for four months for disorderly conduct. On June 14, 1920, he was fined $200.00 and costs for disorderly conduct in Chicago. On March 11, 1926, he was received at the _____ Penitentiary at _____, Kansas, under sentence of five years for stealing mail from mail boxes. On October 17, 1930, he was received at the _____ Penitentiary _____ at _____, Kansas, under sentence of two years for purchasing narcotics. He was released on May 25, 1932, at the expiration of his minimum term.

Institutional Record: This inmate has no punishment reports for violation of institutional rules. He is assigned to 2-F-2 division.

Family Background: This forty-six year old white inmate was born in Chicago on August 7, 1892. The father was born in Canada; and the mother in Pennsylvania. The father was a carpenter. Although he drank heavily, he provided adequately for the family. He died in 1897 at the age of thirty-three years. The mother, Mrs. _____ _____, sixty-seven years old, has never remarried. She now lives at _____ Avenue, Chicago, and receives $29.00 a month old age assistance. The inmate, who was five years old at the time of his father's death, was placed in the _____ Orphans' Asylum, Chicago, where he remained for about five years. He then was placed in the _____ Manual Training School for Boys by his parent, where he learned manual training. He was dissatisfied with both of these institutions; and finally, after being there for three or four years, he ran away from the _____ Institution. The inmate is the second of three children. A brother, _____, died of influenza while serving in the United States Army overseas. The sister, _____, forty-three years old, lives with her husband, _____, an employee of the _____ of New York City, at _____, New Jersey. The inmate receives weekly letters from his mother but no visits.

Mobility and Neighborhood Background: The inmate lived with his parents in Chicago until he was five years old, at which time his father died. The inmate was then placed in _____ Orphans' Asylum, Chicago, where he remained for about five years. He was then placed in the _____ Manual Training School, where he stayed for three or four years. He ran away from this institution and returned to his mother. Since that time he has been in considerable criminal difficulty. At about the age of fourteen years he was sent to the _____ School, where he remained for about eighteen months. After his discharge from _____ he "bummed" around the country until he was sent to the Nebraska institution. After his discharge from this institution, he returned to Chicago, where, with the exception of short trips, he has remained ever since. Residence in Chicago was usually had on the south side of the city in residential neighborhoods. He was living with his common-law wife at

_____ Avenue for five months prior to his arrest for the present offense.

Education: This inmate, at the age of twenty years, graduated from the grammar school while incarcerated in _____. He also learned the printing trade while at _____. Psychometric tests indicate very superior intelligence.

Marital Status: In 1920, at the age of twenty-eight years, he married _____, *a twenty-two year old* _____, *Kentucky girl, at* _____, Missouri. He had known his wife only a short time prior to the marriage. At the time of the marriage she was working as a chambermaid in a hotel. They lived together for about five months and then separated. The inmate states that they have never been divorced. No children were born to the union. The inmate does not know where his wife is at the present time. Five months prior to his arrest for the present offense, he entered into a common-law relationship with _____, forty-four years old. The inmate met this woman, who had been separated from her husband for two years, at a drinking party.

Work Record—Inmate's Statement: When he was not incarcerated, the inmate states that he worked for the following people: In 1918 and 1919 he worked for the _____ Steel Co. _____ Street, Chicago, as a general laborer at a salary of $30.00 weekly; for one year, in 1919 and 1920, for the _____, Chicago, as a helper at a salary of $30.00 weekly; for six months in 1921, as a furniture packer for the _____ Company, Chicago, at a salary of $36.00 weekly. From 1932 until his arrest for the present offense (1937) he has either received direct relief or has been working on government relief projects.

Work Record—Verification: Because of the period of time that has elapsed since the inmate has been employed at gainful labor, no attempt was made to verify his statements concerning his employment record.

Personal Factors: Since the inmate entered his early manhood, there is a continuous history of the intemperate use of alcohol; also, there is a history of the use of drugs. However, the inmate states that he has not used drugs since 1930. There is no history of venereal infection.

Postinstitutional Plans: B. wants to go to Chicago. He has no definite plans regarding residence or parole employment.

Parole Supervision: In spite of very close parole supervision, this inmate may be expected to become involved in further criminal difficulty.

CASE C.

Factor	Item	Fav.	Unfav.
1. Type of Offense	Robbery	#	
2. Sentence	One to twenty yrs.		
3. Time Served	One year		
4. Age	Thirty years		
5. Nat-Rac. Origin	American-Negro		
6. Type of Offender	Recidivist		

Factor	Item	Fav.	Unfav.
7. Criminal Record	St. Charles—burglary; arrest—fugitive; SP, Mississippi—robbery; fined—larceny		—
8. Punishment Record	None	#	
9. Home Status	Broken home		—
10. Family Interest	Passive		—
11. Marital Status	Single		—
12. Social Type	Socially maladjusted		—
13. Work Record	Casual		—
14. Working at Arrest	No (two months)		—
15. Last Assignment	4-C-1 school		—
16. Criminal Mobility	Resident	#	
17. Community	Chicago	#	
18. Neighborhood	Area eight		—
19. Use of Alcohol	Moderate		—
20. Venereal Infection	Gonorrhea (1928)		—
21. Parole Community	_____, Mississippi	#	
22. Parole Neighborhood	Doubtful		—
23. Parole Job	Doubtful		—
24. Number of Associates	Two	#	
25. Mental Rating	Borderline		—
26. Personality Rating	Inadequate	#	
27. Psychiatric Prognosis	Doubtful		—
	Total	8	19

This inmate is in a class in which 70 per cent may be expected to violate the parole agreement. 35 per cent may be expected to be minor violators. 35 per cent may be expected to be major violators.

Offense: C. was received at Joliet on October 26, 1937, from _____ County. He pleaded guilty to robbery and was sentenced from one to twenty years. According to the State's Attorney's report, at about 2:20 A. M. on July 25, 1937, C. and two associates, _____ and _____, held up _____ and _____, while they were walking south on _____ Street between _____ Place and _____ Street, Chicago. _____ hit Mr. _____ with his fist, knocked him down, and then took $3.00 from his pocket. _____ ran across the street and _____ fired two shots at him. _____ stopped after _____ fired at him and fifteen cents was taken from him. The associates were arrested about forty minutes later by police officers, while riding in the car that was used in committing the robbery. A loaded revolver was found between the rear cushions of the car. C. denies his guilt. He states he and his associates were drinking and having a good time, and had started for _____, Indiana, where _____ was to look for a job.

Criminal Record: According to available information, C. has the following known previous criminal record: In 1923 he was sentenced to _____ for twenty-eight months for burglary. On March 8, 1926, he was arrested in _____, Tennessee, as a fugitive from justice. On October 17, 1926, he was received at the _____ Penitentiary Camp ___ at

_____, under sentence of five years for third-degree robbery. He was arrested in _____, Mississippi, and fined $7.00 for larceny.

Institutional Record: He has no punishment reports for violation of institutional rules. He is assigned to 4-C-1 school division.

Family Background: This thirty-year-old Negro inmate was born at _____, Mississippi on February 2, 1908. The parents were born in Missouri. They married in Mississippi about thirty-four years ago. The father was a baker, and owned a small shop at _____, which he operated for six years before his death. He was sober and provided adequately for his family. The mother died in 1922 at the age of fifty years, and the father died in 1925 at the age of fifty years. The father did not remarry after the death of the mother. This was the second marriage for the mother; her first husband died. One child was born to her first marriage; a boy who is now dead. The inmate is the younger of two children. His sister, _____, lives at _____ Chicago. She is separated from her husband and has resumed her maiden name. An inquiry addressed to the sister (_____) was returned, marked, "Not there." The inmate states that this sister writes to him about once a month but does not visit him.

Mobility and Neighborhood Background: The inmate lived with his parents in the South until he was fourteen years old. He then went to Chicago where he lived with his half brother who is now dead. Since that time he has considered Chicago his permanent home although he has travelled extensively through the South, following his vocation as a pugilist. Residence in Chicago was always had on the south side in Negro areas. He was living in a rooming house at _____ Street for two months prior to the present difficulty.

Education: He quit school while in the seventh grade at the age of thirteen years. He now attends the prison school. Psychometric tests indicate borderline intelligence.

Marital Status: He has never married.

Work Record—Inmate's Statement: At the age of seventeen years he traveled throughout the South, earning his living as a pugilist. He states that he received various sums, ranging from $10.00 to $80.00 for each fight. He followed this method of earning a living until 1935. From December, 1935, until April, 1936, he did general work for Mr. _____, a mortician, _____ Avenue, Chicago, at a salary of $22.50 weekly. From April to November, 1936, he did general work for Mr. _____, a mortician, _____ Avenue, Chicago. From March to June, 1937, he was a porter at the _____ Delicatessen, _____ Street, Chicago, at a salary of $12.00 weekly. He had not been working for the two months prior to the present difficulty.

Work Record—Verification: Inquiries addressed to the _____ Delicatessen and Mr. _____ were not answered.

Personal Factors: He admits the moderate use of alcohol. There is a history of gonorrhea in 1928.

Postinstitutional Plans: He wants to go to _____, Mississippi, but he has no definite plans about where he will stay. He claims that he can work for _____, a mortician, who operates an undertaking establishment. The inmate claims that he previously worked for _____ in Chicago. An inquiry addressed to Mr. _____ in Chicago was not answered.

Parole Supervision: In spite of very close parole supervision this inmate may be expected to be in further criminal difficulties.

CASE D.

Factor	Item	Fav.	Unfav.
1. Type of Offense	Crime against children	#	
2. Sentence	One to twenty years		—
3. Time Served	One year	#	
4. Age	Fifty-four years	#	
5. Nat-Rac. Origin	Lithuanian (Russian)	#	
6. Type of Offender	Occasional		—
7. Criminal Record	Chicago H. of C.—wife abandonment; twice fined—pornographic literature (1), indecent exposure (1)		—
8. Punishment Record	None	#	
9. Home Status	Average	#	
10. Family Interest	Passive		—
11. Marital Status	Divorced		—
12. Social Type	Sex offender		—
13. Work Record	Regular	#	
14. Working at Arrest	Yes	#	
15. Last Assignment	Cellhouse B help	#	
16. Criminal Mobility	Resident	#	
17. Community	Chicago	#	
18. Neighborhood	Area five	#	
19. Use of Alcohol	Intemperate		—
20. Venereal Infection	None	#	
21. Parole Community	_____, Illinois	#	
22. Parole Neighborhood	Residential	#	
23. Parole Job	Laborer		—
24. Number of Associates	None		—
25. Mental Rating	Mental defective		—
26. Personality Rating	Egocentric		—
27. Psychiatric Prognosis	Doubtful		—
	Total	15	12

This inmate is in a class in which 36 per cent may be expected to violate the parole agreement. 17 per cent may be expected to be minor violators. 19 per cent may be expected to be major violators.

Offense: D. was received at Joliet on October 19, 1937, from _____, County. He was convicted of crime against children and was sentenced from one to twenty years. According to the State's Attorney's report, on August 22, 1937,

_____, seven years old, _____ Place, Chicago, was playing on a corner a block away from her home with _____, six years old, _____ Place. D. came along and offered the children a ride. He took them into an alley, and then had the children play with his penis. After they had left the alley D. gave a dime to _____. D. was arrested on August 23rd, and was identified at the _____ Station by both of the children. D. denies his guilt.

Criminal Record: According to available information, he has the following known previous criminal record: In 1918 he was sentenced to the _____ House of Correction to seventeen days for wife abandonment. On May 24, 1931, he was fined $200.00 and costs for having pornographic literature and showing it to a seventeen-year-old girl. On November 16, 1921, he was fined $25.00 and costs for exposing himself in an alley before children.

Institutional Record: He has no punishment reports for violation of institutional rules, he is assigned to cellhouse B help.

Family Background: This fifty-four-year-old white inmate was born on a farm on April 21, 1884, in that part of Russia which is now Lithuania. The parents were born in the same locality, where they married about fifty-six years ago. This was the second marriage for the mother; her first husband died. The mother, Mrs. _____, seventy-five years old, lives at _____, _____, _____, Lithuania. The father died about twenty-five years ago. He was a farmer, and provided adequately for the family. Seven of ten children born to the parents are dead. The inmate's two brothers, _____, forty-five years old, and _____, thirty-three years old, live with the mother, and work as farmers. _____ is married and has three children; _____ is single. The inmate has no contact with either his mother or his brothers.

Mobility and Neighborhood Background: In 1905, at the age of twenty-one years, the inmate left his native land to go to _____, England. He stayed in _____ until 1906, and then came to the United States, where he settled in Chicago. Residence since that time has been in the south and southwest sides of Chicago in immigrant neighborhoods. He was rooming with friends at _____ Street when he was arrested for the present offense.

Education: He has never attended school. He states that he just "picked-up" English. Psychometric tests indicate mental defective intelligence.

Marital Status: In 1911, at the age of twenty-six years, he married _____, twenty years old at Chicago. The inmate had known his wife for two weeks prior to the marriage. She had just arrived from Lithuania, and was living with an aunt. They lived together until 1935, and then separated. He accuses his wife of unfaithfulness. The inmate claims that they have never been divorced. However, his daughter, _____, reports, "My mother divorced him three years ago because of the way he treated her, my sister, and myself. He has never shown any love for any of us. He has always been a drunkard and mistreated the whole family while drunk." The daughter's whole letter is very unfavorable to the inmate. Five children were born to the inmate and his wife. Two of the children died at childbirth, and one was killed in an automobile accident. A daughter, _____, twenty-three years

old, lives with her husband, _____, and one child at _____. The other daughter, _____, eighteen years old, lives with her husband, _____, a laborer, at _____. The inmate claims that the daughters write to him occasionally, and that they have visited him once since he has been incarcerated.

Work Record—Inmate's Statement: From 1906 to 1918 the inmate claims to have worked for the _____ Coal and Ice Co., _____ Ave. Chicago, as a driver at a salary of $44.00 weekly. This was the inmate's first job on arriving in the United States. He left this job to go with the _____ Co., _____ Avenue, Chicago, in the same capacity and at the same salary. He left this job in 1921 for one that was nearer to his home. From 1922 to 1935 he states that he worked for the _____ Coal and Ice Co., _____ Avenue, _____, as a driver at a salary of $44.00 weekly. This company failed, and the inmate claims that he lost $1,400.00 in savings which he had invested in the company. From April to August, 1937, he worked for his cousin, _____, a beer distributor, _____ Street, _____, as a helper on a truck at a salary of $7.00 daily. He was working for his cousin when he was arrested for the present offense.

Work Record—Verification: Mr. _____ reported to the Diagnostic Depot that the inmate worked for him as above stated. He would re-employ him because he was an ambitious worker. No other inquiries were made.

Personal Factors: The inmate claims that he used alcohol moderately. However, the daughter reports, "He has always been a drunkard and mistreated the whole family while drunk." Alcohol is closely related to the present offense. He denies ever having had any venereal infection.

Postinstitutional Plans: He wants to go to _____, Illinois. He can live with his cousin, _____, _____ Street, _____, who will furnish him with employment as a helper on a truck. The inmate formerly worked for this cousin.

Parole Supervision: In spite of close parole supervision this inmate may be expected to be involved in sex delinquencies when he is released. Alcoholism seems closely related to his sex behavior. He attempts to rationalize his present situation. He accuses his former wife of being unfaithful, and there is evidently a conflicting situation on a sex basis between him and his former wife. It is not felt that his present incarceration has been a sufficient shock to deter him from further sex delinquencies.

APPENDIX I

PREVENTION OF JUVENILE DELINQUENCY AND CRIME IN PRE-NAZI AUSTRIA[1]

BY ILSE LUKAS

Prevention implies an intensive enlargement of the state power. If damage formerly was the occasion for intervention by the state, now social danger should suffice.

Prevention of juvenile delinquency and crime embraces not only legal measures which aim in the first place at crime prevention. It embraces also many of those measures that tend to be established chiefly for other purposes, but are of great influence for crime prevention, such as social and medical hygiene. Besides the measures which directly aim to paralyze the unfavorable disposition and environment, also those measures must be considered as preventive ones which aim to counteract their causes.

For a better understanding of this exposition we may mention that Austria is a confederation composed of the independent city of Vienna and eight states. According to the census of 1934, the population of Austria numbered 6,762,687; the inhabitants of the city of Vienna, 1,874,130.

I. GENERAL PROTECTIVE MEASURES

1. THE FAMILY

a. The Legitimate Child

If the parents culpably neglect the education of their children, the latter, or anybody who learns of the fact, are entitled to demand help from the court of chancery (*Vormundschaftsgericht*). In serious cases the court deprives the parents of the *patria potestas* and takes the child away from the family in order to place it with foster parents or in an educational establishment. In milder cases the child is left with the parents, but its education is supervised by the court. In the mildest cases the warning of the parents is considered to be sufficient at first.

Since January 1, 1929, the juvenile court is entitled to impose educational measures which are based only on a want of education, *i.e.*, on a truly objective reason. But the juvenile court can only do so if the juvenile person under 18 years of age has just committed a punishable action.

According to the present stage of our legislation, the education of a legitimate child is in the hands of its parents and can only be influenced if a serious lack of education justifies it.

[1] Reprinted from LUKAS, ILSE, "Prevention of Juvenile Delinquency and Crime in Austria," *The Journal of Criminal Law and Criminology*, Vol. 29, pp. 689–707, 1938–1939.

b. The Illegitimate Child

Whereas before the World War guardianship was mostly entrusted to individuals who usually accepted the trust with disgust, considering it as an annoying civil duty and not paying much attention to the fate of their wards, the guardianship for illegitimate children is now entrusted to the public boards of youth welfare whose organization and activity will be described later.

In the years of 1929–1932 about 27.8 per cent of the illegitimate children became legitimatized by subsequent marriage of the parents and thus were removed from the assumed specific sphere of danger created by illegitimacy.

c. Housing Problems

Sound family life depends to a great extent upon economic questions. Thus an educational emergency (*Erziehungsnotstand*) often results from the fact that the members of a family are living under too crowded conditions, or have lodgers or sub-tenants.

In the field of housing the city of Vienna has since 1923 set an excellent example for other industrial centers by having brought about a thorough remedy for the housing evil by its broadminded policy. The number of apartments increased by 27.2 per cent in 1934 as compared with 1910. A comparison of the number of occupants of the apartments in 1910 and 1934 gives the best picture of the results of this housing policy. In 1910 the number of occupants per apartment in Vienna averaged 4.14; this average dropped to 3.03 in 1934. The housing conditions, however, are not yet satisfactory.

Out of 67,524 children and juveniles only 36,872 had beds of their own; 30,652 children and juveniles had to share their beds with others. Thus 8,087 children and juveniles slept with their parents in the conjugal bed; 14,950 slept with other members of the family of the same sex, and 5,978 with members of the family of the opposite sex. Twenty children and juveniles had to share their beds with outsiders. It needs no further illustration to show the great moral perils caused by such sleeping conditions, especially for school children.

In order to enable families without shelter to lead normal lives, the city of Vienna has in the last three years established so-called "family asylums." Plans have been made for five such asylums with altogether 1,000 apartments. One family asylum with 217 flats has already been finished and is in use.

2. The School

School education is automatically added to the education juveniles enjoy at home. In Austria there is compulsory attendance for children between six and fourteen years of age.

Today there is close contact between the visiting teacher (*Schulfürsorgerin*) and the body of teachers. Noticed neglect or complete abandonment of children has to be communicated to this social worker in the schools, who has to consult the parents of the children and to provide for the necessary remedy. In this way there also is created an actual general control over the legitimate children in their own family. The legal basis of this control has hitherto been lacking.

3. Youth Aid

The depression has proved conclusively that the education of the children by family and school alone often does not suffice completely from an hygienic, mental and moral point of view. The youth aid (*Jugendfürsorge*) sets itself the task of

supplementing this education in certain cases and even replacing it totally if it is of an improper kind. The media of the Austrian youth aid are the public boards for youth welfare and private agencies for youth welfare.

a. The Public Boards for Youth Welfare

The beginnings of the movement for establishing these boards are framed in the poor laws, the law regarding the guardianship of illegitimate children and the public hygiene acts. These legal measures go back to the past century.

The last impetus for the establishment of these boards was given by the institution of "general guardianship" in the amendment added to the civil code in 1914 and the law of 1919 on the protection of foster-children and illegitimate children. In the last war years and above all in the first post-war years public boards for youth welfare were created first in lower Austria and in Vienna and subsequently in the remaining states. Only in Tyrol and Vorarlberg is the entire case for youth still in private hands.

The activity of a board for youth welfare may be subdivided into three main groups: legal aid (*Rechtsfürsorge*), whose business it is to watch the rights due to a child, the family aid (*Familienfürsorge*), whose task it is to support and supplement the livelihood and education of the child in the domestic circle and finally the so-called closed aid (*geschlossene Fürsorge*) which has to place the children unfit for family education in educational or health establishments.

The public boards for youth welfare take care of the general guardianship as well as of the welfare of the youth in general by means of district organizations, whose boundaries usually coincide with those of the court districts. The public board of the city of Vienna has fourteen district bureaus (*Bezirksjugendämter*), which in turn control sub-divisions (*Fürsorgesprengel*), the number of which amounts to 250. In every such *Fürsorgesprengel* there is a woman social worker (*Fürsorgerin*).

The general guardianship is managed by the appropriate district board by means of a legally trained supervisor, the affiliated public guardians and the social workers. The general guardianship includes doing all that is necessary for establishing the paternity of illegitimate children; it has to care for the collection of the monies from the parties concerned; and finally, it has to represent the ward in court in the making of contracts, etc. In 1935 the public board for youth welfare of the city of Vienna managed the guardianship of 23,852 wards and ascertained paternity in 1,815 cases.

Among other hygienic institutions of the board there may be mentioned: the medical advisor of the individual schools, the dental clinics for school children, the public feeding of children—which dates back to the work of the "American Relief Administration" shortly after the war—the provisions for recreation (*Erholungsfürsorge*), which enables needy city children of poor or endangered health to have a country visit.

The provisions for supplementary education include assistance to parents by advice and action. Fourteen advisory education bureaus (*Erziehungsberatungsstellen*) are at the disposal of the parents who may use these institutions for pedagogical treatment of children in apparent educational difficulties. In 1935, 1,266 cases were assisted. Active aid is necessary at times when parents for some reason or other are unable to supervise the children during the day and to give them appropriate occupations. The board runs kindergartens for pre-school children and child stations (*Jugendhorte*) for school children.

The child stations have the purpose of looking after and training during their free time those school children who do not enjoy during this period the necessary home supervision or in whose cases the parental education does not suffice, owing to pedagogical difficulties. In the child stations the children first do their school lessons,

then occupy themselves with fancy work, singing, playing games, sports, etc., all under the management of a competent teacher.

To these child stations must be attributed, as is generally recognized, a great significance as prophylactic means against the neglect of and the delinquency of school children. In 1935 the board ran nine child stations with 89 groups, frequented by 2,315 children on a daily average.

b. The Private Agencies for Youth Welfare

A large number of smaller and larger denominational and undenominational societies and clubs are devoted to work for the youth. On the whole they run institutions serving similar purposes as those we have found in the work of the public boards for youth welfare. I want to stress one feature of this private aid which first ventured to combat the most serious peril facing the youth leaving school, namely unemployment.

The relief organization "Youth in Need" initially restricted itself to establishing day homes for unemployed juveniles under 21 years of age, where they were supposed to hear lectures, take part in Jack-of-all-trades courses, avocational reading courses and games under the supervision of competent teachers. In 1930 forty-three homes were opened. They were frequented to a total of 170,651 visits in the work year 1930–31. In the work year 1933–34 there were already 117 homes with a total of 1,789,393 visits, the average number of the daily visitors amounting to 7,810, including boys and girls. Since 1932 "Youth in Need" has not confined itself to assisting youth during their leisure hours, but has enabled it to gain experience in practical work and vocational training.

Although "Youth in Need" and the voluntary labor service (*Freiwilliger Arbeitsdienst*) created by the federal government in 1932 meant help and protection for some thousand young people, only favorable economic conditions will do away with the great peril which unemployment means to youth.

II. SPECIAL MEASURES FOR CRIME PREVENTION

1. The Protection of Juveniles against Bad Influence

The penal and police clauses to protect youth against bad influences are directed above all against the abuse of alcoholic drinks; immorality and trash in moving picture houses, press, and literature; the perils of the street; prostitution; and the bad influences of certain occupations.

A federal law enacted in 1922 stipulates punishment of those who serve alcoholic drinks to juveniles under the age of 16 years in public houses or in other places where alcoholic drinks are sold.

In order to safeguard the juvenile mind against temptation, especially in regard to sexual relationship, there are regulations prohibiting juveniles under 16 years of age to attend moving picture theaters, except when the performances are distinctly authorized for juvenile attendance.

To preserve youth against the perils of the street, child begging has been prohibited, also the employment of children as vendors, etc. Furthermore, children under 16 years of age are subject to a curfew law. The parents are obliged to enforce it.

Also, everything should be kept away from the youth which can arouse or confirm their inclination to idleness or to a disorderly and loose conduct. Persons under 16 years of age are not allowed to visit restaurants, coffee-houses, cabarets and vaudeville shows except under the supervision of an adult person. They are not allowed to smoke or to play cards in public places.

The child labor law of 1919, displaced by a new law in 1935, forbids the employment of children under 14 years of age in places or occupations which might harm the child in its physical, mental and moral development.

It is expressly forbidden to employ boys under 14 and girls under 16 years of age in the dispensing or service of drinks. Furthermore the law prohibits the employment of children under 14 years of age in vaudeville, cabarets, night bars, circus performances, dancing halls, etc. In other public entertainment, as well as in the film industry children under 14 years of age may not ordinarily be employed.

Prostitution is only tolerated when under police control, because only then can the state of health of the prostitute be strictly observed. If minors between 18 and 21 years of age petition for registration, everything should be done to make them drop their intention prior to the giving of legal consent. For that purpose the legal representative of the minor, the public board of youth welfare and private charitable institutions should have the opportunity to exercise their influence. Only if moral abandonment, which excludes any improvement, is positively ascertained may the consent be given. Male juveniles under 16 years of age are forbidden to visit prostitutes. On the other hand prostitutes are prohibited from seducing male juveniles on pain of from three to six months' imprisonment.

2. The Juvenile Court Law

The juvenile court law of July 18, 1928, which displaced the first juvenile court law of 1919 and went into effect January 1, 1929, is applied if a minor or a juvenile has committed a punishable action. A minor, according to Austrian law is a child under 14 years of age. According to the juvenile court law a juvenile is a person between 14 and 18 years of age.

It is characteristic for the organization of the juvenile court that the same judge controls the guardianship as well as the sentences in penal cases concerning juveniles. It is characteristic in the *proceedings* of the juvenile court, that all decisions aim at educational results.

The probation work is performed by the public boards for youth welfare, by charitable societies and by individuals who are concerned with youth aid and have placed themselves at the disposal of the juvenile courts in order to assist in their work. Probation work is not only restricted to the aforenamed investigations. It includes the making of suggestions of the most appropriate correctional measure and the supervision of the probation and the parole of juveniles.

Educational measures are imposed by the juvenile court whenever a juvenile or a minor has committed a crime and if this is connected with the fact that he lacks the necessary education. Educational measures are imposed whether the juvenile is sentenced or not. Before the court makes its choice, the advice of the probation officer is requested. In many a mild case advice of the parents will be sufficient, if they did not properly direct the education of the child on account of ignorance. If however the lack of education is due to a culpable neglect on the part of the parents, the juvenile court imposes the above mentioned measures of guardianship restricting or depriving the parents of *patria potestas*. If possible the juvenile or the minor is left with his parents, but put under educational supervision. The minors or the juveniles can also be taken away from their parents and placed in a foster family. If they are of bad moral character they are placed in an educational establishment. They can also be given into the care of the public boards for youth welfare or transferred to the probation service, if these institutions declare themselves willing to receive them.

APPENDIX J

THE CHICAGO AREA PROJECT[1]

CLIFFORD R. SHAW AND JESSE A. JACOBS, DIRECTORS

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FOREWORD

In the following pages is presented a brief summary of the underlying principles, philosophy, and characteristic features of the Chicago Area Project. No attempt has

[1] Reprinted from a privately circulated mimeographed report entitled *The Chicago Area Project*, by Clifford R. Shaw and Jesse A. Jacobs, Institute for Juvenile Research, 907 South Wolcott Street, Chicago, March, 1939. This experiment grew out of the research on Juvenile Delinquency as conducted by the Department of Sociology of the Institute for Juvenile Research, Chicago, Paul L. Schroeder, M.D., director. Dr. E. W. Burgess, Department of Sociology of the University of Chicago, has been closely identified with the sociological research work at the Institute for several years, and has been a constant advisor and contributor to the work of the Chicago Area Project. In addition to the contribution which the Institute for Juvenile Research and other public and private agencies have made, active support has been given to the Project by the Board of Directors of 35 prominent citizens who have assisted in raising funds from private sources and in maintaining effective working relationships with the various agencies in the city.

been made to describe the details of the program in the three areas in which the Project is operating, nor to evaluate the success or failure of this undertaking. The results of the experiments, which have now been under way for the last five years as a joint plan with the Institute for Juvenile Research, will be presented in three separate reports which are now in the process of preparation.

An Experimental Neighborhood Program for the Prevention and Treatment of Juvenile Delinquency and Crime

The Chicago Area Project is an experiment to determine the extent to which constructive changes in social environment may result in a reduction in the volume of delinquency. It has as its objective the discovering of facts regarding the social and cultural origins of delinquency and crime, and the utilization of this knowledge in a demonstration program which may lead to an improvement of present methods used in the prevention and treatment of delinquency. Its activities are limited to three Chicago neighborhoods which, for more than thirty-five years, have produced a disproportionately large number of cases of delinquent boys and girls brought before the Cook County Juvenile Court.

The primary and distinctive emphasis of the Project is upon the development of the fullest possible neighborhood participation through active leadership of responsible residents of the neighborhood by providing them with facilities and professional guidance in planning their own program for the welfare of *their own* children. The purposes and mode of operation of such a program must be such as to appeal to their sentiments and capture their imagination. All activities are carried on with the view of creating in the residents of the local community an awareness of the problem of delinquency, a collective interest in providing for the welfare of their children and promoting a program for improvements in the community environment which will tend to develop in their children interests and habits of a socially desirable character.

The findings of many years of intensive research and a familiarity with social conditions in these three neighborhoods and Chicago as a whole are the basis upon which the philosophy and program of the Chicago Area Project are founded. Beginning at first as a small experimental project to test some of the implications and principles of these studies, it was incorporated in 1934 as a non-profit corporation, under the direction of a significant Board of Directors, with the hope that ultimately sufficient public opinion and support would be developed to enable the public agencies or an existing private organization to assume responsibility for the projects. It has continued to be dynamically related to the Institute for Juvenile Research, securing much of its personnel from this and other public agencies.

The specific activities conducted by the Area Project are in most respects the same as those conducted by organizations such as boys' clubs, the Young Men's Christian Association, settlements and parks. Included are camping, baseball, football, basketball, boxing, movies, ping pong, pool and billiards, small table games, music, dramatics, handicrafts, printing, newspaper work and club discussions. From the beginning, it has been the avowed purpose of the staff and the Board of Directors to give all credit for any achievements in the communities to local leaders and to established social and civic agencies.

The Area Project differs from established institutions not so much in the content of the program, then, as in the methods used to foster local neighborhood activities. From the standpoint of function, it has seven distinguishing characteristics: (1) It emphasizes the development of a program for the neighborhood as a whole. (2) It seeks to stress the autonomy of the local residents in helping to plan, support and operate constructive programs which they may regard as their own. (3) It attaches special significance to the training and utilization of community leaders. (4) It confines

the efforts of its professional staff, in large part, to consultation and planning with responsible neighborhood leaders who assume major roles in the actual development of the program. (5) It seeks to encourage the local residents to utilize to the maximum all churches, societies, clubs, and other existing institutions and agencies, and to co-ordinate these in a unified neighborhood program. (6) Its activities are regarded primarily as devices for enlisting the active participation of local residents in a constructive community enterprise, for creating and crystallizing neighborhood sentiment on behalf of the welfare of the children and the social and physical improvement of the community as a whole. Finally, it places particular emphasis upon the importance of a continuous, objective evaluation of its effectiveness as a device for reducing delinquency, through constructive modification of the pattern of community life.

One of the outstanding advantages of the Area Project has been the relatively meager outlay of funds for equipment and overhead expenses. It has been the aim of those interested in the Project to utilize plants and equipment already existing in the communities. Research work in the communities in which the Chicago Area Project is established has been conducted almost exclusively by the Institute for Juvenile Research, while the activities program has been carried on under the direction of neighborhood groups co-operating with Area Project workers, whose aim it has been to blend the efforts of public representatives of public and private agencies already active in the community. Thus, only a small additional staff has been needed.

The Area Project has not appealed to the general public in Chicago or elsewhere for funds. Of the small annual budget averaging $30,000.00, two-thirds has been furnished by an eastern foundation. A local foundation and a trust made up the remainder of the budget, with the exception of a small allocation of approximately $4,000.00 a year from the Chicago Community Fund. For the next five years it plans to continue responsibility for the three projects already in operation, without appealing, if possible, to the general business community for financial support. Any expansion into other communities would take the form of assistance to agencies already existing in those communities, or of the development of programs in neighborhoods where such resources are lacking.

The merits of the Area Project will be determined by the degree to which utilization of the constructive leadership of the neighborhood itself in a welfare program results in a reduction in the volume of juvenile delinquency. The extent to which this objective is achieved will be shown by an impartial measurement of results. Thus, *the organization of the local neighborhood to deal effectively with its own problems* is the primary aim and chief criterion of the success or failure of the Area Project.

Delinquency As a Neighborhood Phenomenon

The deteriorated neighborhood fails to surround the child with acceptable cultural standards and wholesome facilities for the satisfaction of play interests. It subjects him to numerous destructive influences which contribute directly to the development of tendencies toward delinquency. Standards and practices of many of the delinquent groups develop as a natural product of local neighborhood life.

Studies of the distribution of home addresses of juvenile delinquents and adult offenders in American cities have dramatically revealed the disproportionately large number of delinquents and criminals produced in specific areas, usually contiguous to the central business sections and centers of heavy industry. These areas in Chicago are located in the districts surrounding the Loop and those adjacent to such major industrial centers as the central manufacturing district and the Union Stock

Yards. In certain of these areas, as many as 15 to 25 per cent of the boys aged 10 to 17 years are arrested for delinquency in any one year.

Those areas are not only characterized by relatively high rates of delinquency, but the boys who become delinquent in these areas tend to persist in delinquent and criminal practices. Approximately 43 per cent more of the delinquents in the delinquency areas are recidivists than in the outlying neighborhoods, where the rates are relatively low.

Once a high rate of delinquency becomes a characteristic of such areas, it persists despite successive changes in nationality composition. When these areas in Chicago were occupied earlier by German, Irish, English, and French immigrants, the rates of delinquency were uniformly high, as contrasted with neighborhoods of higher economic status. The rate of delinquency among these early immigrant groups markedly decreased as they prospered and moved to more desirable localities, while the high rates persisted in the areas from which they moved. As the Scandinavian, Polish, and Italian populations succeeded them in the deteriorated areas, large percentages of children from these groups, irrespective of nationality, began to come to the attention of the police and the courts.

Probably such high rates of delinquency are due in large part to the prevalence of the demoralizing influences in these neighborhoods. Certainly there is no scientific basis for assuming that children residing in delinquency areas are biologically inferior to those in more privileged communities.

The habit of stealing among boys in delinquency areas is formed in the same manner as any habit. It is a function of social experience in the family, the play group, and the community.

In the delinquency areas of the city moral standards are found which are both conventional and non-conventional. The child may have intimate contact with persons who engage in or encourage delinquency, on the one hand, and with pious, law-abiding persons, on the other. This confusion in moral standards is of great importance in the explanation of delinquent activities in these deteriorated areas. Delinquent behavior represents conformity to the expectations of the delinquent group, in the same manner as boys and girls in neighborhoods of more consistent social standards are initiated into acceptable habits of conduct.

Limitations of Current Practices in Prevention and Treatment of Delinquency

Inasmuch as the traditional methods of dealing with delinquency and crime have not yielded the desired results, it is apparent that new procedures must be discovered. It appears that much of the delinquency in blighted areas is conduct molded by community forces which are integrally related to the whole social world in which the individual is immersed. If this assumption be valid, it follows that procedures for the prevention and treatment of delinquency in these areas should be sufficiently comprehensive to include programs of community reorganization, to supplement techniques of individual care from medical, psychiatric and family case work agencies.

There seems to be no correlation between the number of group work agencies in deteriorated areas and the volume of delinquency and crime. Certain areas which have been studied intensively by the Institute for Juvenile Research for the last twenty years have shown a uniformly high rate of delinquency despite the fact that the number of such agencies in these areas has been considerably increased during the same period of time.

That such agencies render invaluable service to Chicago as a whole and to the welfare of the persons in the local neighborhoods who participate in their programs is unquestioned. There seems to be considerable factual evidence, however, that these

agencies, at least as operated at the present time, are not adequately providing for the needs of the delinquent child.

Presumably, the function of neighborhood institutions is to foster among the residents a spirit of *responsibility* and *independence*, of *self-reliance* and *self-confidence* in coping with their community problems. The social agency can in this sense make one of its chief contributions by encouraging expression of the community's native leadership. The ideal situation would be one in which the interests of the community were served by but one leadership, in which the objectives of the social service agencies and the aims and aspirations of the community were merged in common effort for the promotion of the welfare of the community.

In the effort to establish a division of field among social agencies operating within a given area, there is a strong tendency to apportion segments of the community among the agencies as "spheres of interest." Although this practice may be necessary and helpful as an administrative device, there is a real danger that the agency may fail to establish a dynamic relationship with the local community and think of its task as something apart from the real interests of the people it seeks to serve.

The conventional institution may, in a sense, become an object to be exploited. This approach may lead to a very definite type of selectivity in clientele. Such a selectivity may operate not only from the point of view of the institution but also from the viewpoint of the persons it seeks to serve. More often than not, then, the pre-delinquent and delinquent groups would not share in it, finding other personal contacts and spontaneous activities in the community more engrossing. Even though many delinquents may for a time participate in the programs of these agencies, the period of their membership is usually of short duration.

The Importance of Natural Groups and Natural Leaders

In every community there may be found distinct hierarchies and wide varieties of social groupings based upon mutual interests and serving as a means of satisfying certain needs and purposes which the members of the community possess in common. Among these are the churches, clubs, societies, lodges, and play groups. For the most part, these are *natural social* groupings, indigenous to the life of the community, and sustained by the initiative and effort of their own members. Along with the family, they exert the forces which contribute largely to the conduct of the child.

In the prevention and treatment of delinquency, it would seem desirable to make use of these natural human resources in the community. Because of their prestige value, natural groups and institutions are of vital social significance. Through them, local citizens can display their initiative and abilities in developing a constructive program for themselves, their children, and their neighbors. Such use of these natural leaders and groups should be of distinct therapeutic value to those who are dealing with the individual on a psychiatric or case-work basis. As a product of the characteristic social life of the community, they can be utilized to give constructive direction to the cultural and recreational life of the community.

These communities are already operating on a basis of leadership, but it is many times a destructive leadership. Therefore, serious consideration should be given to the possibilities of utilizing this leadership along more socially constructive lines. Little could be suggested that would improve the status of these natural leaders, but through guidance and modification of their attitudes, changes may be effected through them in the younger members of the community who are responsive to them.

Gangs involved in delinquency have been observed to assimilate conventional modes of behavior particularly when these new values were introduced into the group by persons having prestige from the standpoint of the members of the group. This objective seems to be achieved most effectively when the program is formulated

and operated to utilize the loyalties and personal bonds between the boys and their natural leaders, after the latter have been won over to the aims of the program.

The effectiveness of recreation and many other welfare activities as therapeutic measures, it is assumed, could be greatly enhanced if such programs were evolved as community enterprises, integrated with the indigenous groups of the community, and so interpreted to the local residents that they become an expression of the efforts of the community itself to promote its own welfare. Thus, the program is developed *with* rather than *for* the local community. This procedure avoids differentiation between members of the professional staff and residents of the local community, and the implication of a relationship of subordination and superordination between the servers and the served.

The Specific Features of the Chicago Area Project

The Chicago Area Project, as its name implies, is an attempt to treat the problem of delinquency by means of a community-wide program. Since rates of delinquency and crime are excessively high in particular areas in the city, it would seem that intensive effort is necessary to cope with the problem in these areas. If juvenile delinquency is in large measure characteristic of certain segments of the social life of these areas, it seems feasible to assume that one approach to a solution of the problem would be through constructive changes in the attitudes, practices, and moral standards which prevail in the neighborhood as a whole.

The Area Project is in essence an effort on the part of local residents, working in conjunction with the local agencies and institutions, to create a body of constructive sentiments, ideals, and practices of such scope and vitality as to influence significantly the life of every child in the community. At the present time many of the boys in certain areas grow up under the influence of groups or persons who lead them into delinquency and crime. It is hoped that by enlisting the efforts of local residents in a program to promote the cause of human welfare, constructive values may be made more universal in the community. Perhaps constructive leadership may, in due time, be substituted for the destructive leadership which now influences the lives of many of the children in the neighborhood.

The Area Project is, in brief, the application of the fundamental principles which are basic to any truly democratic social order, namely: that in the humble environs of the community itself, the good common sense, the deep concern of the parent in his child's future, the mutual respect of neighbor for neighbor, the motivations which all men share to command the respect and admiration of their fellows, the common struggle for the simple satisfactions of life, can be found the necessary strength and leadership for the solution of local community problems.

The application of these principles to the development of programs in deteriorated areas is perhaps much more feasible today than ever before. At the present time the percentage of native-born residents in the population is much greater than it was two or three decades ago. This native-born population, which is thoroughly sophisticated with regard to the American life, comprises a constructive resource that was previously not available to those interested in community welfare, especially social settlements and other earlier forms of group-work enterprises.

The Chicago Area Project is in operation in three communities. One is located in South Chicago, with boundaries of 79th Street on the north, 86th Street on the south, the Illinois Central Railroad tracks on the west, and the property of the Carnegie-Illinois Steel Company on the east. The second community is in the Near West Side, bounded by Van Buren Street on the north, 12th Street on the south, Ashland Avenue on the west, and Canal Street on the east. The third community is located immedi-

ately north of the Loop, extending from Wells Street on the east to the North Branch of the Chicago River on the west, between Grand Avenue and North Avenue.

In the Near West Side and Near North Side areas, delinquency rates have been among the highest in the city over a period of forty years. Approximately 15 per cent of the boys between the ages of 10 and 17 years are arrested annually in each of these areas. Of the three areas, the South Chicago community has been characterized by the smallest volume of delinquency and least serious forms of delinquent practices among the children.

The specific features of the Area Project plan in these three neighborhoods may be briefly summarized as follows:

1. Use of "Natural" Leaders.—In each area neighborhood activities have been organized and operated under the sponsorship of a community committee, composed of local residents who are important "natural leaders" in community life. For the most part, these are persons who have achieved prestige as members of significant neighborhood institutions. They are church leaders, lawyers, doctors, dentists, students, shopkeepers, druggists, undertakers, and rank and file residents of the community. It is their function to help plan, control and give moral support to the program. Each committee is divided into various sub-committees, which assume specific responsibilities.

2. Staff.—With the exception of a small number of trained workers, the staff is recruited from the neighborhood. (Variations in this procedure are adopted to correspond to differing conditions in the communities.) Some receive a small stipend, while others are volunteers. Many are paid through the Works Progress Administration. All program activities are under the supervision of the community committee which functions in co-operation with trained staff representatives from the Chicago Area Project and other private and public agencies. Staff meetings are held at frequent and regular intervals to discuss problems arising in the communities.

Of the members of the supervisory staff who have functioned during the history of the Area Project, 12 were trained in sociology, 11 in group work, seven in social work, three in psychiatry, two in law, and four had no specialized training.

3. Activities.—Through the local committee, a program of varied recreational, cultural, and educational activities is carried on in conjunction with agencies established in the community. These include camping, football, baseball, basketball, boxing, wrestling, swimming, ping pong, pool, billiards, small table games, music, dramatics, movies, handicrafts, printing, newspaper work, club meetings, and various forms of adult education, and civic activities.

The greatest possible use is made of these recreational, civic, and educational activities with a view to developing community morale, censensus, and concerted action. Such a series of activities, when utilized by the community for the purpose of elevating its moral and cultural condition, becomes a dynamic spiritual force contributing to a new morale. This is reflected in new enthusiasms in the community, acting as a moral force to encourage efforts toward better schools, playgrounds, parks, and development of other phases of cultural and social activities for the benefit of all the residents. Thus the program takes on a much more inclusive and community-wide aspect than would one narrowed to the objective of dealing with the problem of delinquent children.

4. Use of "Natural" Groups.—The community committee seeks to make these activities available to all of the children of the neighborhood—delinquent and non-delinquent. Formal classes organized for children are few in number. In so far as possible each child is enrolled along with the other members of the group to which he belongs, with the aim of preserving the natural relationships and controls in the group. In the case of the delinquent group, the task becomes one of introducing constructive

values into the life and structure of the group. It is in this connection that utilization of the prestige of the natural leader is of greatest importance.

5. Use of All Community Resources.—In these communities, there are institutions and organizations which have been developed and sustained by the financial support and initiative of persons and groups outside the community, as well as the usual institutions indigenous to the community. To the largest extent possible these indigenous institutions are utilized along with public playgrounds, parks, and neighborhood agencies.

By proceeding on this basis, it is possible for the neighborhood committee to give consideration to the needs of the community as a whole and to develop a community-wide program in which all existing facilities are utilized.

It seems reasonable to assume that a co-ordination of all facilities would yield more constructive results than would a procedure in which neighborhood institutions function more or less independently of each other.

Overhead cost in terms of buildings, equipment, and other material resources is minimized, when the entire resources of the community already at the disposal of the lay people themselves—church buildings, club centers, community centers, public agencies, parks, private homes—are utilized in this general program of community action.

6. News Bulletins.—In two of the areas a news bulletin is printed and circulated by the residents. This serves to propagandize the program, arouse general public interest, stimulate concerted action, and contribute to vocational and educational training.

7. Forums.—Public meetings of various kinds are promoted by the community committee in the neighborhood to provide opportunities for discussion by local residents of matters pertaining to community welfare. On such occasions, the purposes of the activities program are defined and interpreted to the community. The aim of these forums is to create a consciousness on the part of the community regarding local problems, to crystallize public opinion, and to stimulate the residents to act collectively for community betterment.

8. The Delinquent Child.—Although delinquents are not set apart in the neighborhood program, particular effort is made to see that their needs are met either in centers set up by the community committee, or through facilities offered by other agencies in the neighborhood. A place is made for them in an organized system of activities, offering through the added discipline of local leadership an intensive supervision and a personal guidance not feasible under the present system of probation or parole.

In dealing with some of the delinquents, special services are secured from child-guidance clinics, family case-work agencies, courts, hospitals, and other organizations which offer intensive individual and case-work treatment.

9. Research and Experimentation.—The Chicago Area Project is experimental in the sense that it is formulated upon the basis of certain assumptions regarding the nature of the problem of delinquency in deteriorated areas. As already indicated, these assumptions suggest an approach to a solution of the problem directed toward community reorientation and rehabilitation, to supplement work already offered through psychiatric and family case-work services. The effectiveness of this approach is tested in various ways. This does not mean that the children in these areas are subjected to tests or observations, or to any kind of activity not characteristic of established agencies. No claims for the program in any neighborhood are made until support of objective evidence is available for them.

The Area Project attempts to utilize principles already widely accepted. Its basic ideas and principles are not new. They are as old as democratic society. Therefore, when the question is asked, "Is not the Area Project primarily a research

or experimental enterprise?" it may be said that the difference from established social or civic welfare agencies which exists lies not in the ultimate goals, but in the steps taken to achieve those goals.

Since the Area Project is experimental, detailed records are compiled on all activities in the program, problems encountered, methods of dealing with these problems, and facts regarding officially known truants and delinquents. Among other things, data pertaining to the following questions will thus be available:

1. What has been the extent and character of the neighborhood's participation in the development and operation of the program? To what extent has there been actual assumption of responsibility on the part of the community for meeting its own needs?

2. To what extent have community residents become increasingly aware of community problems? To what extent have they manifested a quickened interest in a fuller use of community resources to deal with these problems? What constructive changes have been demonstrated in attitudes of parents, community leaders, and others in the community toward the task of promoting the welfare of their children? To what extent have local leaders utilized their prestige and influence for constructive purposes? What evidence has there been of a new community morale for neighborhood improvement, reflected in a move toward better schools, playgrounds, parks, and a fuller use of churches, societies, athletic clubs, etc.?

3. To what extent do case records show that changes have been effected in the attitudes and conduct of truant and delinquent children during their participation in the program?

4. What has been the trend in the volume of truancy, delinquency, and crime in each area since the inauguration of the program as compared to (*a*) the trend during previous years, and (*b*) the trend in adjoining areas in which similar community-wide programs have not been carried on?

In conclusion, it should be emphasized that the socio-economic conditions which are probably responsible for delinquency in the areas in which the Area Project is operating, are the product of influences which are city-wide in their scope. It is not known, therefore, just how far the reorganization of life in local areas can be achieved without reorienting the social and economic life of the city itself. It is possible that the political and civic re-organizations of the city as a whole, so greatly desired by public-spirited citizens, may best be achieved by starting with reconstruction of community life in specific areas. The vitality of movements toward civic betterment is dependent upon an enlightened, intelligent, and aggressive public opinion in the local communities of the city.

In the operation of the Area Project during the last five years, there has been ample demonstration of the willingness and ability of local residents to assume responsibility in developing and assisting in the operation of a constructive neighborhood program.

It should be reiterated that the present report deals only with the broad principles of the Area Project and that no attempt is made to report on the experiment to date. In one Area, there apparently has been a marked decrease in the number of children apprehended for delinquency. However significant this one fact might appear, the case for the program in this neighborhood does not rest on this fact alone. One of the most fascinating by-products of the experiment to date has been the discovery and development of a number of significant leaders and the emergence of a new and constructive community morale.

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