1911

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Recommended Citation

George A. Auden, Feeble-Mindedness and Juvenile Crime, 2 J. Am. Inst. Crim. L. & Criminology 228 (May 1911 to March 1912)

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FEEBLE-MINDEDNESS AND JUVENILE CRIME.

GEORGE A. AUDEN.¹

A few years ago those of us who lived in the North of England were filled with horror at the cold-blooded murder of a little 15 months old child, the inquest on whom resulted in a verdict of "Murder against some person or persons unknown." The little toddling mite and his brother, only a little older than himself, had been playing in the road one Saturday afternoon, and some time afterwards the elder boy was found alone, his little brother having been taken away, he said, by a boy. It was not until twenty-four later that the missing child was found partially buried in some waste ground. One week later a mother missed her own baby who had been playing on the door-step, and, on instituting a search, found him in the arms of an 8 year old boy, who had almost reached the fateful waste patch, the scene of the previous murder. He was accompanied by another small boy, who was known to be mentally deficient. The boy then made the following statement: He had been in the street a week previously, and, seeing the little boy crying, had picked him up. As he carried the child about it fell asleep in his arms. He carried it into the field and laid it down while he made a hole with his hands in the *debris* from the disused ironworks. As he laid the baby on its back in the hole it woke and cried, "Mummy! mummy!" He described how it struggled and kicked while he piled the rubbish, brick ends and a large stone upon the living grave. Having done this he had gone home, totally unconcerned, to his tea. Every detail of this tale of horror was detailed without the slightest sign of compunction or regret, and he admitted that it had been his intention to repeat his exploit with the baby now found in his arms, though he said that he and his companion (the mentally deficient child above referred to) had discussed whether they should bury this one or vary their method by drowning it.

We stand aghast at the mental attitude of this youthful fiend, in whom the infant's cry of pain could touch no chord of tenderness, and whom no thought of the unutterable anguish of the mother could restrain from murder. Yet this boy had as yet shown no such signs of mental deficiency as had already marked out the companion of his

¹Medical Superintendent, Education Committee, Birmingham, England.

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second, and fortunately unsuccessful, attempt. It is unfortunate that no evidence is forthcoming as to his educational attainments. The report of the police officer, however, is highly instructive: "The prisoner, K. P., did not appear to me to be insane, though he was far from being bright. He was born illegitimate. His mother, who was also the mother of other illegitimate children, to say the least of it, led a very immoral life. The boy's surroundings during the whole of his life were of a very undesirable character, and to this fact I attribute the boy's lack of intelligence; in fact, in my opinion, he scarcely knew right from wrong."

Let me cite two other cases of a similar character.

Case 2.—A. W., age 15½, a tall, weedy, anæmic boy, with considerable myopia, whose teeth were in a very bad condition (many of them totally destroyed), was charged before the children's court in July of last year with stealing a bicycle. He has gone through his school career without attracting special notice in regard to mental deficiency, although he had only reached standard IV. Within a fortnight of his first appearance in court, and whilst he was under the supervision of the probation officer, he stole another bicycle. A few days later, having hired a bicycle, he kept it for a few hours and left it at some distance from the shop whence he had hired it, having exchanged it for another which he saw standing unwatched in the street. A week later he obtained goods to the value of 1s. 8d. by stating that his mother had sent him and would pay on Saturday. A fortnight later, being asked to hold a pony whilst its owner transacted some business in a shop, he got into the trap and drove away, picking up two little girls, strangers to him, on the way. He was found four hours later driving about on the other side of the town. When questioned concerning this escapade, he gave me, with the easiest glibness, a categorical statement of his doings, which was palpably a tissue of lies. He was, moreover, a truant. Strangely enough, until his first appearance in court for the bicycle theft he was employed in a jeweler's warehouse, where he appears to have raised no suspicions as to his propensities.

Case 3.—X. Z., age 9. Report by his headmaster: "Mentally a smart, intelligent lad, much above the average." At my examination he read with intelligence and expression and calculated accurately and quickly. A maternal uncle is a social outcast, oscillating between prison and the workhouse (drinking, thieving, etc.). He has always shown temper, but for the last two years has shown violent paroxysms, during which he would injure those near him if not prevented. He is an inveterate liar and steals continually, within five minutes of be-

ing punished. Money he spends upon sweets for himself, jewelry he hides by burying or placing under mats or in the lining of his clothes. Two months ago he stole from the house of a school friend a silver watch, which he broke, and afterwards he exchanged with a small for a trumpery toy. On being sent to a grocer's shop he filled his pockets with figs, dates, etc. After a dinner at home he has sometimes called at the house of a school friend to ask for food. He delights in causing pain; for example, "he loves to trap people's fingers in drawers." He makes companions of children below his station in life, and has learned habits of swearing and self-abuse. He has on several occasions soiled or wet his clothes. He is vain, and will stand before a looking glass to look at himself. When asked about his exploits he cried and said he did not know why he did these things. Physically he is pale, with very bad teeth and tall forehead, and shows some evidence of rickets. His ears are badly shaped, and there is a secondary vortex of hair over his frontal bone. He is said to have suffered from rickets as an infant, and not to have commenced talking until 3 years of age. There are no other degenerative stigmata. There is no history of measles, scarlet fever or whooping cough, nor is there a distinctive history of fits. There are, however, some symptoms strongly suggestive of *petit-mal*.

The three cases which I have here summarized have one feature in common—*i. e.*, the inability to conform with the canons of conduct demanded by a civilized community. The lads are, in fact, moral imbeciles, and as such fall within the definition of moral imbecility enunciated by Sir J. Crichton-Browne—*i. e.*, they are "persons who, by reason of arrested development or disease of the brain, dating from birth or early years, display at an early age vicious or criminal propensities, which are of an incorrigible or unusual nature, and are generally associated with some slight limitation of intellect." It has been argued, and I think rightly, that moral imbecility does not exist as a definite psychological entity unassociated with mental impairment or recognizable signs of physical degeneration. Certain it is that in two of these three cases there was definite intellectual impairment, although so slight as to be out of all proportion to the deficiency in the power of forming moral concepts, as exhibited by their anti-social tendencies. There were in the third case—a lad from a family in good social position—some physical degenerative stigmata, together with a history of similar propensities in another member of the family.

Kraepelin² has pointed out that these individuals show a morbid

²"Clinical Psychiatry," p. 310.

incapacity to conform to the fundamental conditions of human social order, with an impulsive inclination to perform certain actions dangerous to the community without any comprehensible motives. In other words, they lack moral control, which has been defined as the control of activity in conformity with the idea of the good of all.³ How far, therefore, are such individuals to be held responsible for their misdeeds is a question of paramount importance to the community, for upon the answer to the question depends the treatment to be adopted.

It has been urged that sometimes there is a physical basis for moral delinquency, which acts as a source of irritation, the removal of which may be followed by a return to the paths of rectitude and propriety. Thus, the removal of impacted teeth in an apparently vicious boy has been known to produce a transformation as sudden as that of "Dr. Jekyll and Mr. Hyde."⁴ The removal of adenoids and large tonsils may exercise a profound influence for good upon the character as well as upon the physical condition. It is, moreover, a well-ascertained fact that the physical condition of the juveniles committed to prison is much below the normal of their age. In fact, one of the ends which is aimed at by the Borstal system is the increase in the bodily fitness of the prisoners *pari passu* with the assimilation of practical knowledge. That the physical condition and the mental condition are intimately inter-related is a psychological axiom, but it may be safely said that no wholesale removal of adenoids and impacted teeth will make a sensible reduction in the statistics of juvenile crime.

The rulings of the judges, laid down in the famous MacNaghten case in 1843, is that for a plea of insanity to hold, it is necessary that the condition of the mind of the offender is such that he does not *know* the nature or the quality of the act he commits. Mr. Justice Stephen has said that "*knowing* the act is wrong, means nothing more nor less than the power of thinking about it the same as a sane man would think about it." But knowing, *i. e.*, the faculty of distinguishing between right and wrong, "is not by itself sufficient to establish responsibility, for crime does not belong to the sphere of thought, but of action. A second condition must be fulfilled before we can impute crime to the actor.—he must possess the capacity of being guided by his knowledge."⁵

The boy murderer may not have been fully cognizant of the full relationship of cause and effect; he doubtless would have recognized

³Still, Goulstonian Lectures, 1902.

⁴*Psychological Clinic*, Vol. IV., p. 19.

⁵Russian Penal Code Bill, quoted by Oppenheimer. *Criminal Responsibility of Lunatics*, p. 170.

that burial alive or drowning would be an unpleasant experience had he himself been the subject of the experiment. There was no provocation and no delusion or deluded obsession which could prompt the killing of a helpless infant such as that so vigorously portrayed by Sophocles when Ajax butchered the cattle under the delusion that he was killing his enemies, the Atreidae. In other words, the boy was in cognitive relation to his environment, but was lacking in moral consciousness.

In each of these cases there is exhibited an inability to weigh the act and its consequences in the scales of logical reasoning, for, although these lads doubtless knew that their actions were wrong, and would entail unpleasant results to themselves if discovered, they were unable to estimate the amount of wrongness which, when placed in the balance, as it were, outweighed the action. The study of mental defect has taught us that there are some individuals in whom the power of forming a concept from the letter-symbols, by which we express words (*i. e.*, who are "word-blind") is lacking, who are, however, capable of forming correct mathematical concepts from the symbols by which we denote number. There are others in whom the reverse defect is found. These can read fluently, yet they cannot grasp the fact that 3 plus 3 equal 6, because they cannot form a concept of number. We find similarly word-deaf persons and color-blind persons. (There are some grounds for believing that color-blindness is, in part at any rate, central rather than peripheral in origin.) In the same way some of us have no ear to recognize the rhythm of sound which we designate "tune"; others have a deficient sense of position, and, to use a phrase, borrowed from the phrenologist, have no "bump of locality." Indeed, such facts as these seem to show that all these faculties are developed in varying degrees in each individual. It seems, therefore, a reasonable and logical assumption to regard the capacity of forming a moral concept as strictly analogous, and to believe that this faculty may show all stages of development or be completely absent. Nay, more than this, it must be the experience of each one of us to recognize on introspection that there are differences in degree in our own intuitive powers of apprehending moral concepts and moral obligations.

Let us now consider the question of the frequency of this type of deficiency. I doubt not that most of us are familiar with the evidence under this heading laid before the Royal Commission on the Care and Control of the Feeble-Minded. The report of the Criminal Lunatic Asylum, Broadmoor, for the year 1909 shows that of 801 inmates, 119 are cases of congenital mental deficiency. Of these, 71 were committed

for murder or attempted murder—a percentage of 59.6. During the year 135 convicted prisoners were certified to be insane, of whom 7 belonged to the group of congenital and epileptic imbeciles. It is noticeable that the convictions in each case against the three of the former group were for violence. So much for the inmates of the Criminal Asylum, who are saved from the perpetration of further anti-social acts by their incarceration. The prison returns show that much of the petty crime of the country is due to feeble-mindedness, and that the mentally deficient form the most hopeless class of criminal recidivist. Sutherland, from an analysis of the figures for 1906,⁶ shows that of 36,710 prisoners in Scotland 4,700 were recidivists, and of those 2,500 were weak-minded or mentally unstable. He further points out that of the prisoners committed for indictable offenses, 18.5 were under 16 years of age.

The report of H. M. Commissioners of Prisons shows that the average number of feeble-minded prisoners received by the local prisons is 400 per annum. During the year 1908-9 only 259 prisoners were reported as being so feeble-minded as to be considered unfit for the usual prison discipline.⁷ Now what reason can be assigned for this reduction in the numbers? The reasons suggested by the Medical Inspector of Prisons are instructive:

1. Long sentences have recently been given under the vagrancy act, so that many feeble-minded tramps have had fewer opportunities of getting convicted.

2. The progressive mental deterioration has carried some of the older gaol-birds into lunatic asylums.

3. Some of those who formerly helped to swell the annual totals in the local prisons may, by the increased heinousness of their offenses, have incurred the severer penalty of penal servitude. In support of this allegation it is a significant fact that the number of feeble-minded persons in the convict prisons has been gradually increasing.

4. An increasing recognition of the present evil of committing these irresponsible persons to prison may have led to the disposal of these cases in other ways than by imprisonment. This is the most hopeful reason of all.

There were 142 feeble-minded male prisoners under detention at Parkhurst, together with 25 convicts placed there for further mental observation. Of these former, 60 were congenitally feeble-minded; 23

⁶*Journal of Mental Science*, April, 1907.

⁷In 1909 the number reached 322, while 118 convicted, debtor and surety prisoners were certified insane. The number of convicts certified insane was 36.

convicts were certified insane. This does not represent the whole truth, for 27 of the 142 could not be definitely assigned to any exact category, while 31 showed imperfectly developed insanity. (It is a well-known fact that feeble-mindedness is a forerunner of true insanity in a large number of cases. "It affords a favorable soil for the growth of the most different varieties of mental disease."⁸) The crimes for which the classified feeble-minded persons were convicted may be grouped thus:

Thieving, burglary, etc.	59
Violence, murder, wounding, etc.	30
Sex crimes	20
Arson.....	18
Various other crimes (forgery 2, threatening letters 4) ..	15

Total.....142

The feeble-minded women are incarcerated at Aylesbury, and 14 were under control in the year in question. The governor reports (p. 209): "During the past year eight have been discharged, of whom two were sent to workhouses under magistrates' certificates, one to a home and one to a convent. The remaining four were liberated, and have all again been convicted. One has been sentenced to a new sentence of penal servitude. She is not yet 40 years of age, and this makes her fifth penal servitude conviction." One, aged 48, committed suicide by hanging. She was an habitual criminal of the tramp class, and had had 131 previous convictions. Her last conviction was for vitriol-throwing, for which she had been sentenced to five years' penal servitude.

Here is the testimony of Dr. Quinton, late Governor of Holloway Gaol, whose thirty-four years in the prison medical service has given him a unique opportunity of seeing the close relationship of feeble-mindedness with crime and vicious living: "Female offenders who are of weak intellect will gain incalculable benefit from the scheme of the Royal Commission, which provides for their removal from prison altogether. This class—a very pitiable one—never has been, and never can be, rationally dealt with under a short sentence system. Their vicious habits and criminal propensities soon alienate them from relations and friends who, in despair of controlling them, abandon them to their fate—picking up a living on the streets. Petty thieving, drunkenness and prostitution bring them back to prison time after time, their only gain from imprisonment being the protection it affords them

⁸Kraepelin, *loc. cit.*, 280.

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for the time being from the perils of the street, which, in the case of feeble-minded girls and women, are appalling. They need not only preventive but protective detention in some kind of institution other than a prison for a much longer period than any term of penal servitude their offenses would justify."⁹

The latest report, ending March 31, 1910, of the medical officer of Pentonville, is equally telling:

"There were 106 weak-minded persons, ranging from juvenile to adult age. The majority of these individuals are congenitally deficient, and many of them are malformed in body as well as in mind; they are the mental inefficients who are unable to compete successfully in the labor market, and sink accordingly into the tramp class, in which they form a large element. They are a very important group from the labor colony point of view, and an investigation of their numbers and their characteristics in an institution of this kind would furnish the means of forming a rough estimate of what will be needed when they come to be dealt with on the colony system. Under existing circumstances they are inevitably converted into prison recidivists. Many of them, in addition to their mental deficiency, have physical infirmities which prevent them from earning their living. If they have homes—and most of them have not—their parents want to get rid of them, and there are no institutions to which they can be sent. I have in my mind two boys of this kind, both of whom began their downward career in 1906; one has already been here eight times and the other nine times, the latter having been convicted as early as the age of 16 for drunkenness. Once started, these cases come here time after time, and by their repeated convictions swell our annual totals. Occasionally their mental condition gets temporarily worse, and they become certifiably insane; in fact, 17 of this weak-minded class last year had been under asylum treatment at one time in their lives."

Some light is thrown upon the question by the statistics relating to the juvenile-adult prisoners—*i. e.*, between the ages of 16 to 21. In the year ending March 31, 1909, there were 263 convictions. Of these 143 had had two or more previous convictions. The degree of education of these prisoners is instructive, for the standard reached by a child at the close of his school career may be taken as a reliable index of his mental capacity. Only 77 had reached standard IV, while 186 had remained in the three lowest standards.

The latest returns—those for the year ending March 31, 1910—are still more striking, for out of 554 committals to Borstal institutions,

⁹"Crime and Criminals, 1876-1910."

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402—i. e., 72.2 per cent—had failed to reach standard IV, while 317 (or 57.4 per cent) had had two or more previous convictions. The standards in school reached by the prisoners in these two years may be tabulated thus:

Standard	Illiterate	I.	II.	III.	IV.	V.	VI.	VII.	Total
1909	3	26	70	87	59	12	3	3	263
1910	25	99	157	121	104	27	11	10	554

Sutherland gives the following percentages of the education of English prisoners in a given year:

Unable to read or write.....	19	per cent
Read and write imperfectly.....	78	per cent
Read and write perfectly.....	2.4	per cent
Superior education	.08	per cent

Truly "ignorance is a danger to the State!"

These figures, however, do not represent the whole truth, for many mental defectives who commit indictable offenses are dealt with under the First Offenders Act and the Probation Act. Here is the report kindly given to me by a probation officer in the Birmingham Children's Court:

"During the past four years about 50 cases in all have appeared before the court, most of which have been charged with felony of a more or less serious nature, but of course you cannot take these figures as being a fair estimate of mentally defectives who have criminal propensities, as many persons, on finding a child is afflicted, will not prefer any charge against them. Consequently they do not come under our observation.

"A few of the cases that have come before the court have been discharged on the parents promising to look after them in future, but the majority have been either adjourned or placed on probation for periods varying from three to 12 months.

"Several have been discharged after probation as fairly satisfactory, but in the great majority of cases probation has proved next to useless."

The returns from the state inebriate institutions have been purposely excluded from consideration in this paper, but enough has been said to show the enormous total amount of crime which is the outcome of feeble-mindedness. Neither the prison nor the asylum is the right place for these feeble-minded criminals. There is no place for their custodial care in our present scheme of social polity, and we are driven to the strange conclusion that the best chance for the individual and for society at large is, under existing circumstances, the commission of some serious crime, such as murder or arson, which will remove him for a lengthy period from further opportunities for anti-social action. By the removal from our penal establishments of the admittedly feeble-

minded prisoners (on whom punishment and prison discipline are recognized as having no deterrent effect), the opportunities for greater specialization and classification of the same prisoners by the Borstal system, and by the recent regulations for the provision of humanizing influences, will be greatly increased. It is evident that an indeterminate sentence with statutory power to transfer to some form of institution which shall be substituted for the prison, affords the only satisfactory solution to the question. It is argued by some that to commit an individual who showed no very clearly marked signs of mental defect to a semi-penal institution would be a gross infringement of the liberty of the subject, and that, as there is sometimes difficulty in diagnosing the border-line cases of feeble-mindedness, public opinion will not permit a life-long branding of such cases as persons dangerous to the community, unless and until they have revealed their tendencies by some anti-social act. This argument is a specious one, and is founded chiefly upon the prevailing ignorance of the nature of mental and moral defect. Granted that the liberty of the subject must be sedulously safeguarded, it must be pointed out that the experience of every colony and institution proves that the feebly gifted person feels no deprivation of liberty by reason of his intellectual limitations, and because he is relieved from the storm and stress of the struggle for existence, under which conditions alone is he capable of self-support. It must be remembered further that such segregation entails infinitely less anxiety and trouble to the relatives and to the community than that occasioned by the perpetration of some criminal act which may cause life-long sorrow to all concerned. Take, for example, a recent trial for murder at the Birmingham Assizes, in which the plea of feeble-mindedness was urged for the defense, and ultimately earned a commutation of the death sentence. Had the lad in question been relegated to a colony for such cases his family would have been spared the ordeal of a criminal charge at the Assizes, while the parents of his victim would not have had to bear the burden of sorrow for a young life so needlessly and cruelly cut off.

In his evidence before the Royal Commission, Mr. Willis Bund (questions 19,290 *et seq.*) expressed the view that those cases in which the evidence *prima facie* points to feeble-mindedness should be examined by a physician who has special experience in mental defect and feeble-mindedness. This is provided for by the Royal Commission, which recommends "that in a Court of Summary Jurisdiction prior to conviction and apart from it the justices should remand the offenders to a receiving house or ward or institution or to other interim custody or adjourn the case, and subsequently, *if the medical certificates justify such a course*, adjourn the case *sine die* and order the reception of the offender

in an institution considered suitable by the committee for the care of the mentally defective." Appointments of this kind would be comparable to the *Gerichtsärzte*¹⁰ of Germany or the "experts médecins près les tribunaux" of France.

With the establishment of Juvenile courts for the trial of children, and with the inception of remand homes such as that recently given to the city of Birmingham, the value of such an appointment will be still more apparent.¹¹ The adoption of this suggestion will do something to remove the scandal of the present treatment of the feeble-minded. An illustrative example of the present position of affairs was given in February last at the Northeastern Divisional Children's Court by Mr. J. Dickenson. A boy, aged 15 years, was charged with breaking open an automatic gas meter and stealing 4s. 7d. which it contained. It was reported that the boy's mental condition was so low that it would be impossible to teach him any industrial occupation, and that he was therefore not eligible for an industrial school. "What am I to do?" asked the magistrate. "This is the second case I have had before me to-day in which the prisoner has been mentally deficient. I cannot send such people to prison; there is no other place provided for them, and to send them out into the world again amongst the class of people they associate with is simply tantamount to launching them into a career of crime. Magistrates should have more power in such cases, and the fact that they have not draws attention to a serious flaw in our judicial system. The prisoner must be discharged."¹²

It cannot be too strongly impressed upon our notice that "every imbecile, especially the high-grade imbecile, is a potential criminal, needing only the proper environment and opportunities for the development and expression of his criminal tendencies. The life history of the case put under permanent protection and training at an early age is very different from that of the cases which grow up at large in a modern urban community. Nearly all of the cases trained from childhood or youth may be taught habits of industry and comparatively good behavior, and a large proportion of them settle down to a condition of inhibition of the anti-social traits, and indeed to a condition of ostentatious pride in the virtues which they unwillingly practice."¹³

¹⁰Criminal Code, 1871; cp. Oppenheimer, "The Criminal Responsibility of Lunatics," p. 46.

¹¹A scheme of this kind is already in operation in the U. S. A., e. g., at Boston and Philadelphia, cp. *Psychological Clinic*, Vol. 1, p. 130.

¹²*Times*, February 5, 1910. See also Mr. Willis Bund's evidence, Royal Commission, Question 19,290, and Appendix, Vol. 2, p. 634.

¹³Fernald: "The Imbecile with Criminal Instincts," *American Journal of Insanity*, 1909, p. 747.