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THE RECIDIVIST.¹

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It is to be noted that about all of the measures proposed as reforms in penal administration could be catalogued as "Recommendations of an extension of classification" and, from another viewpoint, there are probably but few authorities in criminology who would suggest any other avenue as that along which penological science is to advance than that of an extension and improvement of classification. What should be the basis of further effort to this end?

Up to the present time attempts at classification of prisoners have been confined almost wholly to the separation of long sentence servers from the short term offenders, the separation of felons from misdemeanants and the differentiation of older and experienced offenders from the younger and less sophisticated—distinctions based on variety of offense or experience in criminality. These distinctions are wise ones as far as they go and we should continue to make them with responsible prisoners; but there is a more vital difference between men which has not yet been recognized in our scheme of classification, namely: that which obtains between men of full mental responsibility and those of a limited or partial responsibility. And in adapting treatment to those of limited or inadequate mental capacity, especially, their defectiveness should be considered rather than the kind of offense committed or the degree of experience in criminality. The reasoning is faulty which leads to the classification of offenders on the basis of the kind of offense committed; i. e., on an effect instead of a cause. Rather should classification be based on the kind of mind which renders the offense possible. Then a vital, significant, causal factor is the basis of classification. This recommendation is occurring with increasing frequency in recent and current criminological literature.^{1½}

The next step in the extension of classification need not be revolutionary or bizarre. All delinquents may be conceived of as in one or the other of two classes: either they are in the large class of responsible persons, amenable to reform, whose mental equipment is adequate for their honest self-support; or they are in the much smaller class of those

¹Read at the annual meeting of the American Prison Association in Baltimore, Nov. 11th, 1912.

^{1½}Warren F. Spaulding, *Am. Journal of Criminal Law and Criminology*, Vol. III, No. 3, p. 378.

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whose mental equipment is inadequate for honest self-support, hence they are of limited responsibility and in addition have a training in criminality and anti-social tendencies in some degree. This comparatively small class is that from which our recidivists are recruited,² and if its members were differentiated and segregated under appropriate and special treatment adapted to their needs; both classes would benefit thereby and the diminution of criminality would be directly and effectively promoted.

The question is, should not delinquents be classified as fully responsible and reformable on the one hand; or as of limited responsibility and in need of special treatment on the other hand? The contention is that treatment on the basis of such classification would contribute very largely and directly to the diminution of criminality.

The small class of offenders under consideration includes defectives with a criminal history or tendencies, those border-land cases between the feeble-minded and the competent, between the sane and insane and the "moral imbeciles,"³ those so aptly termed the "futile residuum" by one of the very highest authorities.⁴

A convenient treatment of the subject matter to be presented is under three heads, viz:

1. A characterization of the mental type known as the recidivist or defective.
2. A method of differentiating members of this class.
3. An administrative suggestion as to the treatment of this class.

Penologists need no definition to enable the recognition of recidivists; but, to discuss intelligently methods of differentiation and treatment we should have a common conception of this unique, important, perplexing and often misunderstood class. A finished representative of the type with a history is easily recognizable, though different representatives of the type present an almost infinite variety of form of manifestation. This wide diversity is due to differences in nationality, disposition, training, taste, and temperament: differences which make for individuality and which are relatively superficial rather than vital.

The essential mental characters which distinguish the recidivist as a class from other prisoners are those which incapacitate him for reacting normally to his environment. The fundamental differentiating character common to all members of the class, and not to members of other classes in the same degree, is that of a degenerate or inadequate mentality mani-

²Dr. Bernard Glueck, *Journal of Criminal Law and Criminology*, Vol. III, No. 2, p. 220.

³Dr. I. N. Kerlin, 17th National Conference of Charities and Corrections, 1890, *Proceedings*, p. 244.

⁴Prof. Henderson in "Preventive Agencies and Methods," *Charities Publication Com.* p. 42.

fest in the intellectual sphere or in the moral sphere or in both, usually slight in degree relatively, but associated with a tendency to criminality or vagrancy. Certain characteristics anomalies and aberrations of psychic development are to be observed also, such as an exaggerated ego or obstinacy or a characteristic lack of foresightedness and of fixity of purpose. These, however, are frequently found upon analysis to be dependent upon demonstrable deficiencies. Recidivists are essentially deficient—sometimes more than that—but always deficient; deficient in adaptability, in ambition, in moral sense and moral stamina, in self-control and self-criticism, in judgment or in others of the mental attributes essential to such a measure of success in life as is implied in honest self-support; hence their responsibility for anti-social and illegal acts is limited. Some examples of this class are at times in our hospitals for insane criminals because their mental equipment is such that they cannot react normally to the disciplinary demands, restraints and measures of training which must be met by prisoners under sentence.

Studies of this type have shown its representatives to be possessed of much the same feelings and mental faculties as their better controlled fellows, the difference being one of degree rather than of kind. Feelings of shame, remorse, reverence, love, gratitude, ambition, revenge, jealousy, etc., are represented in their mental field; but they differ in degree of spontaneity and controllability from those of the successful citizen. As we have elsewhere stated:⁵ "The reason such a prisoner cannot be reformed is to be found in his peculiar intellectual equipment, the result of arrested mental development. The high grade imbecile is often a plausible, glib talker and sometimes he can make a good first impression on a superficial observer; but he is egotistical, uninformed and anti-social. He lacks high ideals and real morality, though he may have a fair academic knowledge of right and wrong. He is incapable of long endurance and sustained effort and concentration of attention, and so can neither acquire skill and knowledge nor accumulate wealth. He lacks a worthy central ambition or plan in life, and seldom has a well defined method in view whereby to accomplish his puerile projects. He is easily bullied or flattered, being very "suggestible;" but is seldom influenced by an appeal to the higher mental qualities; ambition, gratitude, reverence, remorse, etc.; in fact it often seems that self-interest is almost the only motive that can be stimulated into sufficient activity to become a source of action, and that his egotism is about the only route to what he may wish

⁵"The Defective Delinquent Class: Differentiating Tests," *Am. Journal of Insanity*, Vol. LXVIII, No. 4.

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to conceal. He will almost invariably sacrifice future lasting benefit for some trifling immediate gratification. Easily swayed by some ignoble impulse or inclination, he is not easily amenable to the influence of reason, and so is unstable in temper, and unreliable or dangerous. Conscience, concern for consequences and a feeling of responsibility, honor and fairness seem represented in his field of consciousness by vestigial remnants only. He urges and is easily satisfied with invalid excuses and sophistries for shortcomings. His acts and decisions show defects of judgment which, with his lack of constancy, are fatal to his chances of success. Some exhibit arrogance and conceit with small basis therefor. Many can do fairly well under surveillance; but left to themselves they are inconstant and fail.

“As a class their patriotic and altruistic feelings are weak, and their fear of personal or physical harm is unduly strong, so that they are likely to be cowardly and cruel. They often falsify, lacking a love of truth for its own sake, and not being far-sighted enough to see that an untruth is never expedient. They lack an adequate conception of the value of consistency, fidelity, forbearance, fortitude, accuracy, system and logical sequence. These people often volunteer that they ‘can’t help doing wrong,’ or ingenuously assert in justification that they ‘wanted to do’ so and so, and the pitiful truth is that such expressions of feeling are acceptable to them in lieu of reasons. Self-criticism is outside their thinking. Sometimes it is not a defect or lack of ability that defeats them, but their failure to use or co-ordinate their faculties in crises, whence their poor judgment and lack of self-control. On examination they exhibit a lack of training, of course; but the significant fact is that this class has a defective capacity for training. They show an undue number of the mental stigmata of degeneracy and easily become victims of alcohol and drug habits. These mental characteristics are common to all misdemeanants in some slight degree at least, and even the best equipped of mankind may show some of them at times; but the class under consideration exhibits them in a marked degree and frequency of incidence.”

The confirmed recidivist is the product of the continual irritative demoralizing action of our ordinary, though highly specialized life on a congenitally inadequate organization. Those observers who have made catamnestic studies of juvenile defective delinquents find that defective subjects become recidivists; and it is a statement as true as it is trite that recidivist in most cases is none other than the juvenile delinquent in adult the anamnesis of every recidivist shows that he began his criminal career

in his youth. So, in the absence of statistics, it is a fair inference that the life, and that every defective delinquent is a potential recidivist. Although pronounced examples of the class under consideration are easily recognizable, yet the determination of the classification of border-land cases, especially when dealing with youthful offenders having a short criminal history, is a matter not to be lightly undertaken. Nevertheless, it is quite within the capacity of our present-day methods of scientific research to extend classification so far that but very few undiagnosed cases remain.

We recognize the futility of attempting to differentiate the guilty from the innocent, the habitual criminal from the accidental or the defective from the fully responsible on the basis of the physiognomical characters, physical abnormalities, cranial or other physical measurements. All such are attempts to distinguish between classes on the basis of a superficial or accidental difference. A recent careful study of the physical characters of 3000 prisoners in England resulted in demonstrating that there is a striking similarity, physically, between the criminal and non-criminal classes.⁶ The superficial difference between the delinquent and the honest citizen would seem to consist in the fact that each has reacted differently to social and legal requirements. The character or characters which enable or cause this diversity of reaction would seem to be the fundamental difference to be measured in demonstrating the classification. An enabling or producing cause of this kind is not a physical peculiarity, evidently, but an endogenous mental character. Recognizing this fact modern criminologists have turned to the psychic or mental characters and are making free use of the psychologist's methods of research, and with his tests are seeking to measure mental efficiency and mental defect.

Sociologically, therefore, the difference between the class under consideration and the rest of mankind is very great, and psychologically, the difference is fundamentally characteristic and demonstrable.

Before venturing to suggest a suitable environment for recidivists it is appropriate to outline a method of differentiation. In applying and proving this method of examination at the Massachusetts Reformatory valuable diagnostic and statistical data were obtained besides the results indicated. In undertaking the study the following considerations could not be ignored:

1. The group examined should be strictly representative.
2. Scientific validity of conclusions demands that a large group of cases be studied.

⁶Justice DeCoursey, *Am. Journal of Criminal Law and Criminology*, Vol. II, p. 110.

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3. The ratio of the number of subjects yearly to the examiner's spare time limited the time available for each subject's tests and precluded an intensive study of the group.

4. The purpose of the study is to secure for each subject a valid basis for classification always excluding the personal judgment of the examiner on individuals and their reactions.

5. Field work, as a source of anamnestic material, is not available for this research.

The method employed consisted, essentially, in recording for comparison all the available information on each one of a representative group of 100 subjects. The sources of the recorded facts were, briefly, as follows:

1. The subject's clinical history carefully obtained.
2. His Reformatory conduct record and Evening School and Industrial School records.
3. His police and court records.
4. Simple tests of scholastic attainment.
5. His reactions to 11 psychological tests uniformly applied and checked up by comparison with similar results obtained from a norm group of 12 Manual Training School students of comparable age and degree of mental and physical ability.

The information from the first four of these five sources not being reducible to record and comparison as mathematical data are assembled and treated as clinical notes on each subject. The information from the application of the psychological tests, however, readily lends itself to mathematical study and comparison and to the application of the computations of the science of mental measurements. Each of these dissimilar modes of examination, the alienist's and the psychologist's dealing with different, yet cogent materials check up and supplement each other admirably; e. g., if the clinical information indicates that a subject's mental capacity is of a low order, the psychological information treated mathematically not only confirms this finding, but shows just how low in the comparative scale of 100 that particular subject stands, and what his relative standing is to the norm group in efficiency. Yet the two methods of examination are quite independent.

The psychological tests were chosen or devised with the following desiderata in view; viz:

1. As great a variety of each subject's mental activities should be tested as the available time permits.
2. Tests should be such that each subject's efficiency may be scored with a single numerical value in order to measure, group and compare scores by the methods of the science of mental measurements.
3. The apparatus required should be easily procurable and portable.
4. The tests should be such as to be independent of both the language factor and previous training.

⁷Edward L. Thorndike, "Mental and Social Measurements," Science Press, N. Y. Guy M. Whipple, "Manual of Mental and Physical Tests," Warwick & York, Inc.

5. Tests adapted to mental ages below five are needed in exceptional cases only; since tentative and exploratory examinations indicate that the mental ages of the least efficient of the Reformatory subjects are probably not below that of five or six; and that, in the case of the most efficient subjects, the mental age varies little from the chronological.

The distinctive features of this investigation, a detailed account of which has been published, are as follows; viz:

1. Two new psychological tests are employed.
2. The treatment of efficiency scores is by the methods of the science of mental measurements, a treatment made possible by scoring with single numerical values and thereby securing, as one advantage, the automatic arrangement in series of the subjects according to their relative standing.
3. The combination of the alienist's with the psychological examination. By this treatment the personal judgment of the examiner as a factor in determining the classification of the individual is so minimized as to be practically eliminated, and the subject and his friends need not feel that the examiner is the arbiter of the fate of those examined.

The list of tests employed, eleven in number, and the computations based thereon gave an arrangement of the subjects in a series on the basis of mental efficiency which was consistently parallel with the clinical findings. This procedure, however, while adequate for the determination of classification on the basis of intellectual efficiency cannot be expected to serve in another capacity as well. To detect cases of mental alienation, of degeneracy, of moral deterioration or of neuropathological aberration other and appropriate means of examination must be employed.

The results of the investigation outlined were as follows; viz:

1. The dividing line between normal and subnormal prisoners, i. e., between those whose mental age is not appreciably below their chronological age and those in whom the difference is appreciable falls at about No. 52 in the series of 100. (This figure, 52, and that of the following paragraph, 24, are estimates in each case from a group of border-land cases and are not submitted as an attempt to show that case 53 e. g. is wholly normal, and that case 52 is obviously subnormal.)
2. Twenty-four are clearly "Defective," i. e., so far deficient intellectually that they could not be expected to reform or support themselves honestly if released without surveillance.
3. Of these "Defectives" about one-half are of such a truculent and intractable disposition that they should be committed (not sentenced) at once to an environment suited to their needs, where they may be trained in simple industries and prevented from procreation.
4. The less disturbing half of the "Defectives" could be added to the above mentioned class without injustice.
5. Alienists' methods of examination showed in the group of 100, three insane or epileptic, five morally defective, one both morally defective and sexually perverted. One case of visual defect was found which improved in mental efficiency rapidly after errors of refraction were corrected.

Since the publication of the statistics on which the above conclusions were based it has been found by one of the most eminent research workers in this field that probably not less than 25% of the criminals who come before our courts are feeble-minded and that a much larger per-

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centage of the children brought before the Juvenile Court are defective.⁸

Beside the statistical results above outlined, the following conclusions were reached :

1. The responsibility of the defective delinquent is limited. Therefore this class should be committed to a suitable institution or colony, instead of being sentenced for punishment with fully equipped misdemeanants.

2. The differentiation of mental defectives of the highest grade is based solely on the measurements of mental characters.

3. Mental characters capable of expression may be measured by applying uniformly properly adapted psychological tests.

4. Cases of moral perversion, sexual deviation, degeneracy, insanity, etc., are not to be diagnosticated by tests adapted to differentiate defectives; but require other and appropriate means of investigation.

5. By the transmutation of the efficiency scores obtained from the application of appropriate psychological tests the relative standing of each subject in a group may be mathematically determined.

6. The group of scores and computations presented may serve as a nucleus to which new scores may be added, each in its relative standing, by alienists using the same tests and methods of computation.

Having now briefly outlined a conception of the class under consideration and a method of determining the individuals belonging thereto, let us inquire into the treatment indicated, i. e., into the social and administrative aspects of the problem. In the first place, recidivists, being demonstrably defective and more or less trained in criminality, should be kept out of criminality and under training towards honesty and industrial activity for a sufficiently extended period, and being defective and not wholly responsible they should not be sentenced, but should be committed indefinitely as are the insane and feeble-minded. To free all other classes of the community from their demoralizing and often dangerous influence they must be absolutely segregated—physically separated from every other class. Both normal prisoners and defectives may be better disciplined and, what is even more important, will the better preserve self-respect when each class is by itself than is possible when they serve sentences together.

An environment adapted to the needs of this class is a custodial, industrial institution or colony under the direction of a medical specialist in psychopathology where simple industries and farm work form the principal occupations; and where all the essential features of a psychopathic hospital are provided.⁹ To obviate the objectionable feature of the mingling of adult and adolescent defectives, an institution of the kind indicated would, in its beginnings, admit only adolescents. These, as they became institutionalized and trained in the remaining years of the formative period, would be far less intractable after some years spent in a mental

⁸Dr. H. H. Goddard, *Am. Journal of Criminal Law and Criminology*, Vol. III, No. 1, p. 373.

⁹"*Am. Journal of Criminal Law and Criminology*," Vol. II, No. 5, p. 779.

atmosphere to which they could react well; than they would be, if those years were spent in and out of courts and penal institutions. Their anti-social tendencies and truculence would be far less when they reached middle life, after years in a home, and their influence on young incomers would not then be markedly detrimental. The damage to the young from association with older criminals is that the older criminal brings to the younger stories of success and adventure and plausible schemes appealing to his cupidity. We cannot imagine young defectives coming among older ones who left criminality perforce when they were adolescent as encountering a deleterious influence at all comparable with that which obtains wherever an old offender or tramp, fresh from the road, is alone and idle with a young offender.

The potential recidivist is the youth of either sex who is demonstrably defective and who has a criminal record or tendencies. Apparently the next step in the extension of classification of delinquents is the segregation of these potential recidivists where they may be treated according to the needs of their condition and be taught and trained to earn an honest living in the custody of the state, thus preserving their self-respect. By this means their full development into social parasites and the propagation of their kind are prevented. Moreover, the community is rid of a costly menace and becomes possessed of a small earner, and the law ceases to punish one who is not wholly responsible. No less an authority than Professor Henderson has said: "The next step seems to be the final segregation of the incapable in an environment suitable to their condition."

According to the findings at the Massachusetts Reformatory 25% of criminals are mentally defective. About 75% then of prisoners are to be regarded as of competent mentality and fully responsible, or only subnormal. The reflex effect of the segregation of the defectives on the larger number of responsible prisoners is not to be overlooked. In a prison community which includes both classes any relaxation of requirements in favor of a defective marks him as such or opens the way for the damaging criticism of the administration that partiality is shown. When the defectives are segregated no such occasion will remain for invidious discrimination.

Again the reflex effect on the fully responsible prisoners of the knowledge that their fortunes are not at the lowest ebb, that there is a place to which irresponsible offenders are committed indefinitely can but act as a deterrent. The realization on the part of any offender that an exhibition of a lack of self-control might precipitate an official examina-

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tion into his capability of good conduct could hardly fail to act as a strong and a salutary stimulus to good efforts.

The experience of the foremost authorities in the education and treatment of the feeble-minded of institution grade without pronounced criminal tendencies has been that these subjects of lower grade of intellectuality, of inferior physical equipment and of much younger age than the class under consideration, can be trained to be partially, and in some cases approximately self-supporting.¹⁰ From this fact it is a fair expectation that the inmates of a colony of defectives would be self-supporting since they are older, better equipped for industry and would remain for a longer period individually in the institution.

Two imperative prerequisites to the successful realization of this plan are, (1) the demonstration and segregation of defective delinquents while young, i. e., as soon as criminal tendencies appear; and (2) the absolute physical segregation of the class under commitment.

In conclusion three points are to be noted: (1) among offenders one class, i. e., "Defectives," older or younger, are of limited responsibility these should not be sentenced with fully responsible offenders. (2) Members of this class may be differentiated. (3) They should be differentiated and segregated for a long continued training specially adapted to their needs in a custodial, industrial institution or colony of which the hospital features are prominent.¹¹

¹⁰Report of the "Indiana School for Feeble-Minded Youth." Report of the "Massachusetts School for Feeble-Minded Youth, 1905."

¹¹Dr. Daniel Phelan, Proceedings American Prison Association, 1910, p. 379.