

1916

Editorial

Follow this and additional works at: <https://scholarlycommons.law.northwestern.edu/jclc>

 Part of the [Criminal Law Commons](#), [Criminology Commons](#), and the [Criminology and Criminal Justice Commons](#)

Recommended Citation

Editorial, 6 J. Am. Inst. Crim. L. & Criminology 479 (May 1915 to March 1916)

This Editorial is brought to you for free and open access by Northwestern University School of Law Scholarly Commons. It has been accepted for inclusion in Journal of Criminal Law and Criminology by an authorized editor of Northwestern University School of Law Scholarly Commons.

Journal of the American Institute of Criminal Law and Criminology

Managing Editor, **ROBERT H. GAULT**
Associate Professor of Psychology, Northwestern University.

Managing Director, **FREDERICK B. CROSSLEY**
Librarian of the Elbert H. Gary Collection of Criminal Law and Criminology, Northwestern University.

ASSOCIATE EDITORS

Victor von Borosini , Sociologist, Chicago	Edward Lindsey , Member of the Warren (Pa.) Bar.
Frederick B. Crossley , Librarian of the Elbert H. Gary Collection of Criminal Law and Criminology, Northwestern University.	Adolf Meyer , Professor of Psychiatry, Johns Hopkins University.
Katherine Bement Davis , Commissioner of Corrections, New York City.	Nathan William MacChesney , of the Chicago Bar; former President of the Institute. President, Illinois Bar Association.
Charles A. De Courcy , Justice of the Supreme Judicial Court of Massachusetts.	Ira E. Robinson , President Judge of the Supreme Court of West Virginia. President of the Institute. The Capitol, Charleston, W. Va.
Robert Ferrari , Member of the New York City Bar.	Arthur J. Todd , Professor of Sociology, University of Minnesota.
James W. Garner , Professor of Political Science, University of Illinois.	Chester G. Vernier , Professor of Law, University of Illinois.
William Healy , Director Juvenile Psychopathic Institute, Chicago.	Guy Montrose Whipple , Professor of Educational Psychology, University of Illinois.
Joel D. Hunter , Chief Probation Officer, Juvenile Court, Chicago.	John H. Wigmore , Dean of the Northwestern University Law School, Chicago.
Smith Ely Jelliffe , Managing Editor, Journal of Mental and Nervous Diseases, New York City.	Elmer A. Wilcox , Professor of Law, University of Iowa.
Edwin R. Keedy , Professor of Law, Northwestern University.	

Communications relating to contributions and books for review should be addressed to the Managing Editor, Evanston, Ill.

Subscriptions and business correspondence should be addressed to the Managing Director, Northwestern University Building, 31 W. Lake Street, Chicago, Ill.

Issued bi-monthly. \$3.00 a year, foreign \$3.50, 60 cents a number.

CONTENTS

EDITORIALS

- "Our Criminal Problem from the Standpoint of Classification and Segregation"—Educational Standards for Moving Pictures 481
- Memorials to Mr. John Lisle and to Professor Charles Richmond Henderson 486

CONTRIBUTED ARTICLES AND COMMITTEE REPORTS

1. The President's Address.....Robert Ralston 490

CONTENTS—Continued

2. Employment and Compensation of Prisoners (Report of Committee "A" of the Institute).....	507
.....William N. Gemmill	
3. Immigration and Crime (Report of Committee "G" of the Institute).....	522
.....Grace Abbott	
4. How Shall the People of the United States of America Reform Their Legal Procedure so as to Make it an Instrument of Justice?.....	533
.....Hugh Evander Willis	
5. Defects in Our Criminal Procedure.....	546
.....Walter Clark and Chas. B. Faris	
6. Public Defender	557
.....Mayer C. Goldman	
7. The Modus Operandi System in the Detection of Criminals	560
.....Raymond B. Fosdick	
8. Criminal Responsibility	571
.....Philip Coombs Knapp	
9. Morphinism	586
.....L. L. Stanley	
10. Proceedings of the Seventh Annual Meeting of the Institute	594
.....The Editors	

JUDICIAL DECISIONS 602

NOTES AND ABSTRACTS 611

Weakwitted Offenders Bandied About by Stupid Police and Hospital Managers, 611—Credibility of the Testimony of Children, 613—The Individual and Society in Romagnosi's Origins of Penal Law, 613—Connecticut Farm for Inebriates, 614—Magistrate's Court for Administrative Cases, 614—Improvements at the New York Penitentiary, 615—The Mutual Welfare League at Sing Sing, 618—Police Duties, 623—Police Education, 624—Criminality Among the Widowed and Divorced, 625—What Standards Shall We Have for Motion Pictures Shown to Children, 627—Criminal Myths and Realities, 629—Civil Service Examinations in New York for Head Keeper in the House of Correction, 630—Examinations for Clerkships in Irish Courts, 631.

REVIEWS AND CRITICISMS 633

Introduction to the Practice of Penal Law, Dr. Jur. Herman Lucas, 633—The Criminal Imbecile, Henry Goddard, 636—Annual Report of the New York City Department of Correction, Katherine B. Davis, 637.

EDITORIALS.

"OUR CRIMINAL PROBLEM FROM THE STANDPOINT OF CLASSIFICATION AND SEGREGATION."

At the recent annual meeting of the American Prison Association, at Oakland, Cal., October 9th to 14th, a paper was read by Dr. Edith R. Spaulding, of the State Reformatory at Framingham, Mass., under the above title. The paper has been published in the *Boston Medical and Surgical Journal* of October 7th of the present year. It comprises a total of forty-six pages. In few papers of the sort is a profusion of data set forth so distinctly as in this one. Dr. Spaulding says in the introduction to her paper:

"Diagnosis of the individual delinquent is essential as a foundation for reform, and diagnosis is being found to resolve itself largely into a medical and mental problem. It is true that environment and training are equally important factors, but without the fair evaluation of the physical and mental factors other factors cannot be estimated in proper proportion. As in medicine a patient may recover without treatment or diagnosis, or a physician may administer proper treatment in spite of the wrong diagnosis, so in criminalistics reform may take place without the reformer's help, or, empirically, with the reformer's help but without the fundamental cause of his career being discovered. Nevertheless, as in medicine, the majority of cases of delinquency require treatment based on diagnosis, and that diagnosis calls for all the help which the combined forces of sociology, medicine, psychiatry, and psychology can give. To this end laboratories should be established in our courts and in our correctional institutions."

The Massachusetts penal statistics for the year ending September 30, 1914, show that in the course of that year there were a total of 25,820 prisoners sentenced within the year, and that of these 14,817, or 57.4% of the total had served more than one sentence. The total number of previous commitments was 92,443, which makes an average of over six sentences for each of the repeaters. Such results as these show that our methods of reform not based on previous diagnosis are not encouraging, to say the least.

Dr. Spaulding, in this paper, is reporting particularly upon a study of 500 women prisoners in the Massachusetts reformatory. The diagnosis of these cases suggests a classification such as appears to the author to be suitable from the point of view of treatment. There is a

group comprising 24.8% of the total 500 who are in such mental and physical condition that they require permanent segregation. At present, however, the State of Massachusetts, just as most other states, for that matter, does not provide sufficient institutions to segregate one-fourth of her prisoners. This group is divided into two classes. The institutionally amenable comprise 95 cases, or 19% of the total, and the institutionally incorrigible, or psychopaths, comprise 24 cases, or 4.8% of the total 500.

A second class comprises 38% of the total, or 190 cases. These are termed by the author as suitable subjects for the application of what she calls a "truly indeterminate sentence." Those who belong to this class require partial segregation. The indeterminate sentence now in general use, as Dr. Spaulding well says, may more correctly be termed an indefinite sentence. Under a "truly indeterminate sentence" a prisoner, once released from an institution, may be returned at any time, provided he or she shows indications that society, either from the point of view of health or peace, is unsafe by reason of his being at large. It is like a period of parole that never ends in the course of the lifetime of the prisoner. The great difficulty with the present indeterminate sentence, Dr. Spaulding points out—and it is indeed one of which we are all well aware—is that the sentence is not long enough in most instances to give the prisoner sufficient time to recover, even in the best of circumstances, from his indisposition, especially if that indisposition is based on an adolescent instability which may require years of careful supervision and treatment to cure. This class comprises three groups: the institutionally amenable, 74 cases, or 14.8% of the total; the institutionally incorrigible, 60 cases, or 12% of the total; the recidivists, 56 cases, or 11.2% of the total—making a grand total of 38.5% of the cases in the second class.

In the third class we have 191 women, or 38.2% of the total 500. This is the class that is eligible for parole, not necessarily because the cases are hopeful, but because they present insufficient excuse for longer sentence than is now provided by law for each offence. Here we have again three sub-groups: the harmless defectives, comprising 13 cases, or 2.6% of the total; those whose reform is doubtful, comprising 70 cases, or 14% of the total; and in the third place the reformable group, comprising 108 cases, or 21.6% of the 500 cases.

Dr. Spaulding has graphically and with surpassing clearness set forth after the description of these three classes important facts relating to the mental and physical condition of the prisoners. It is interesting to observe that the average age of those who fall in the first class above mentioned (the 24.8% who require permanent segregation),

is 25.2 years, while the average age of the two remaining classes is 31.1 years and 30.4 years respectively. This would seem to be an argument against the classification according to age which has been suggested in various states. The theory behind this age classification is that those women who are under 30 years present the most fertile field for reform.

Further charts point out graphically the prevalence of venereal disease. Gonorrhoea, for example, in the three classes (those eligible for permanent segregation, for "truly indeterminate sentence," and for parole) is found in 92.1%, 74.4% and 59.1% of the individuals in the three classes respectively. As to syphilitic infection, we find in the three classes respectively, 69.9%, 40.7% and 31.9% infected. This would seem to give us a view of the relative danger to the health of the community arising from the three classes of individuals. Once more, it is shown graphically that the cases with psychopathic tendencies lead all others in the proportion of disease which they have acquired.

Again, Class I, which is described as requiring permanent segregation, shows an average of 3.8 sentences and 5.9 arrests; Class II, 3.1 sentences, 4.9 arrests; Class III, 1.2 sentences and 1.9 arrests. This points to the relative danger to the peace of the community from the three groups described.

The statistics quoted above are drawn from Dr. Spaulding's analysis showing the ideal disposition of the 500 cases studied. "If laboratories could be established as clearing houses in connection with our courts, many of these cases would never need to carry the unjustly imposed stigma of prison and could be sent directly to other institutions where they would receive appropriate treatment." In the Municipal Court of Boston is the Psychopathic Laboratory, under the direction of Dr. Anderson; in the Municipal Court of Chicago is a similar laboratory under the direction of Dr. William J. Hickson. In neither Massachusetts nor Illinois are there sufficient institutions established to care for the hospital cases discovered in such a classification as this that is under review. Until such institutions are established, these individuals must be cared for in the various reformatories and prisons to which they may be committed. In these reformatories, then, the groups referred to above would be separated from a fourth group composed of first or second offenders without mental or nervous defect who present fertile ground for education and treatment. This group, then, would not be handicapped by the presence of defective individuals. It could be put under the influence of industrial, domestic and academic training, in a department of the institution in which normal discipline should be made to prevail. We quote here the conclusions which Dr. Spauld-

ing has drawn in this wholly admirable study, and add our confession that this review is entirely inadequate. Our readers will be amply repaid by, not one but several, careful readings of Dr. Spaulding's article. The conclusions follow:

"If the criminal problem is one of treatment of the individual for a deficiency rather than of punishment for the crime committed, the following fundamental provisions for the administration of such treatment are necessary:

"First, adequate provision by the State for the permanent custodial care of all committed cases of mental defect, whether or not they have a court record.

"Second, the establishment of laboratories in our courts and correctional institutions for the study and diagnosis of all offenders.

"Third, the equipment of all our institutions with facilities for classification and treatment of the various types which will remain even after the removal of the most defective. Such a classification will necessitate separate buildings, at least one of which should be equipped for hydro-therapy.

"Fourth, the adoption of an indeterminate sentence which shall enable us to treat patients until they are able to return with safety to the community.

"The physician has it in his power to do much towards educating the public to the need of fundamental measures of reform and to counteract the superficiality that is found among too many of our enthusiastic believers in universal reform. His knowledge of mental and physical defect enables him to see more than a cross section of a subject which is represented by the population at present confined in our penal institutions and to appreciate the social and economic waste which is the result of our base neglect of generations of inefficient in the community."

ROBERT H. GAULT.

EDUCATIONAL STANDARDS FOR MOVING PICTURES.

We call attention to a questionnaire at page 627 in this number of the JOURNAL to which it is hoped every reader will make reply. It is addressed especially to those who are particularly interested in the educational and moral value of moving pictures for children and adolescents. When we recall the fact that thousands and thousands of young people in our cities, large and small, are frequenting the moving picture theatres, we will surely be impressed by the thought that the pictures, for good or ill, are having a tremendous educational influence upon the younger generation. Consequently it will be fairly assumed that when

we are giving so much attention to educational standards in the schools, we should not neglect thought of standards in out-of-school education. Educational and moral standards in connection with moving pictures are as tangible as similar standards in History and Literature.

Replies to this questionnaire should be addressed to Mr. Orrin Cocks, care of the National Board of Censorship, 70 Fifth Ave., New York City.

ROBERT H. GAULT.