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James M. Hepbron

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# PROBATION AND PENAL TREATMENT IN BALTIMORE<sup>1</sup>

JAMES M. HEPBRON<sup>2</sup>

In an effort to determine the relative results of probation and penal treatment in Baltimore City, two groups of offenders have been studied. First, 305 persons placed on probation during 1923 to the Probation Department of the Supreme Bench of Baltimore City, and second a like number of convicts who were released from the Maryland Penitentiary at or about the same time that the other group was granted probation.

## THE CASES STUDIED

The number of probationers studied (305) represents all the criminal cases handled by the Probation Department in which probation was granted in 1923. Of a total of 3,164 cases resulting in conviction in the Criminal Court in 1923, probation was granted in 810 cases, or 25 per cent. (25.6 per cent.) of the total. Of the 810 cases, 425 were Domestic Relations cases. The total number of criminal cases, therefore, in which probation was granted was 395. Fifty-three of this number were released on probation to no one, 19 to some one other than the Probation Department and 18 were placed on probation to the Probation Department, of which 18 they had no record. This report deals, therefore, with the 305 probationers actually handled by the Probation Department.

Since the number of Baltimore City convicts released from the Maryland Penitentiary in 1923 totaled only about 150, it was necessary to select about 75 convicts who were released during the last six months of 1922 and 75 who were granted freedom during the first half of 1924.

## THE METHOD OF STUDY

The subsequent conduct of the two groups over a period of two years and nine months has been studied in the following manner:

First—The police record (exclusive of traffic violations) in Baltimore City of each member of both groups was searched from the time of probation or release from the penitentiary to October 1, 1926.

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<sup>1</sup>Published privately by the Commission in June, 1927.

<sup>2</sup>Director, Baltimore Criminal Justice Commission.

Second—The names of those probationers having no subsequent police record were submitted to the individual probation officers handling the case and classified by them as either "Satisfactory," "Doubtful," "Unsatisfactory" or "Non Est" (not located).

Third—The names of all convicts were submitted to the Prisoners' Aid Association for whatever information concerning them that organization might have.

Fourth—All those in each group who were not again convicted were cleared through the Social Service Exchange to determine to which, if any, of the agencies registering with the Exchange the particular individuals were a problem.

#### REPRESENTS UNDERSTATEMENT

It was realized when the study was planned and before data were sought that it would be impossible to gauge success or failure on too fine a scale. The figures presented, therefore, represent an under-statement of the real situation, since many arrests were disregarded because of inability to definitely identify those studied through change of address, spelling of name, etc. Likewise it was impractical to secure police records other than for Baltimore City. The more intimate facts of the probationers' and ex-convicts' lives could not be learned without considerable field work and research, which it was impossible for the Commission to undertake. Incidentally it was learned in searching the police records that some of those placed on probation had prior records, some going back to the Juvenile Court and continuing through to adult life. Furthermore, in the convict group some of those arrested and convicted after their release from the Maryland Penitentiary were also given probation. It must suffice, therefore, for the purpose of this study to know of the conduct of each group through the records and sources heretofore mentioned.

#### EXPLANATION OF TERMS

Inasmuch as the terms "probation," "suspended sentence," and "parole" are commonly and incorrectly used interchangeably, a brief explanation of these terms is set out herewith.

Correctly speaking, probation is that part of the penal administration which involves those persons who, after conviction, are set at conditional liberty in lieu of fine or imprisonment. Parole is that part of the penal administration which involves those persons who, after the service of a portion of a sentence of imprisonment, are set at

conditional liberty. Suspended sentence, of course, describes the abatement of any or all of the sentence of fine or imprisonment. Probation is granted by the judge before whom the individual is tried, while parole is granted by the Governor upon the recommendation of the Parole Commissioner.

Since it is important to know the offenses for which the two groups were originally convicted—before, of course, either probation was granted or a sentence imposed—the facts are set forth in the table which follows:

CHARGES ON WHICH THE TWO OFFENDING GROUPS WERE ORIGINALLY CONVICTED

Probation Group	Offense	Penal Group	Probation Group	Offense	Penal Group
...	Abortion .....	1	26	False Pretenses.....	9
...	Arson .....	1	4	Forgery .....	7
14	Assault .....	20	1	Harboring Female	
...	Assault to Kill .....	5		Minor .....	...
3	Assault to Murder .....	...	1	Indecent Exposure.....	1
1	Assault to Rape .....	1	159	Larceny .....	107
...	Assault to Rob .....	6	...	Malicious Destruction of	
3	Assault and Robbery... ..	...		Property .....	1
3	Assault on Wife.....	...	...	Manslaughter .....	4
...	Begging .....	1	...	Mayhem .....	1
4	Bigamy .....	5	...	Murder .....	4
28	Burglary .....	62	1	Perjury .....	...
4	Carnal Knowledge .....	4	7	Prostitution .....	...
2	Conspiracy .....	...	4	Rape .....	1
3	Deadly Weapon.....	1	6	Receiving Stolen Goods	6
6	Disorderly House.....	...	4	Robbery .....	45
6	Disturbing Public Peace .....	...	...	Rogue and Vagabond..	3
11	Embezzlement .....	7	3	Unnatural Sexual Act.	1
			1	Vagrant .....	1

CERTAIN DIFFERENCES APPARENT

It will be noted from the foregoing table that certain differences between the two groups are apparent. In considering the results these differences must at all times be borne in mind.

Of the 305 probationers, 158, or 52 per cent., were whites and 147, or 48 per cent., negroes, while in the penal group 119, or 39 per cent., were whites and 186, or 61 per cent., negroes.

Taken as a whole, the offenses for which the penal group were sentenced were more serious than the crimes of the probation group. For example, there were 62 burglars in the penal group, as compared with 28 in the probation group; 45 robbers, as against 4; 4 murderers in the penal group with none in the probation group. In larcenies, however, the probationers exceeded the convicts, the former committing 159, as against 107 by the latter.

MANY LATER CONVICTED

It was found that of the 305 probationers, 89, or 29 per cent., were subsequently convicted. Thirty-one were convicted in the Criminal Court and 58 in the Police Courts. Five of those convicted in the Criminal Court were sentenced for violation of the terms of their probation.

In the penal group of 305, 94, or 31 per cent., were convicted. Forty-one were convicted in the Criminal Court and 53 in the Police Courts.

A total of 112 probationers were arrested 243 times, varying from 1 to 31 times each, exclusive of traffic violations. This means that the conduct of 36.7 per cent. of the probationers was such as to cause them to be charged with a violation of the law.

Of the convict group, 109 were arrested 339 times, varying from 1 to 33 times each. Thus of this group the subsequent conduct of 35.7 per cent. was such as to cause them to be charged with a law violation.

The figures covering the arrests and convictions of each group are set forth in the following tables:

*Table Showing the Distribution of Arrests (Exclusive of Traffic Violations) among the Two Groups without Regard to Dismissal or Conviction*

	Probation Group	Penal Group
Arrested 33 times	..	1
Arrested 31 times	1	..
Arrested 21 times	..	1
Arrested 12 times	1	1
Arrested 11 times	..	1
Arrested 10 times	..	2
Arrested 9 times	..	1
Arrested 8 times	1	..
Arrested 7 times	1	1
Arrested 6 times	4	1
Arrested 5 times	1	8
Arrested 4 times	5	10
Arrested 3 times	5	19
Arrested 2 times	28	20
Arrested 1 time.	65	43

*Table Showing the Distribution of Convictions (Exclusive of Traffic Violations) among the Two Groups*

	Probation Group	Penal Group
Convicted 1 time.	63	50
Convicted 2 times	14	19
Convicted 3 times	7	10
Convicted 4 times	1	6
Convicted 5 times	2	2
Convicted 6 times	1	1
Convicted 7 times	..	1
Convicted 8 times	..	1
Convicted 9 times	..	1
Convicted 11 times	..	1
Convicted 12 times	1	.
Convicted 17 times	..	1
Convicted 32 times	..	1
	89	94

RATIO OF CONVICTIONS

It is apparent that although a slightly larger number of the probation group were arrested as compared with the penal group, yet a greater number of those in the latter group were convicted. Of the

89 probationers, 58 were convicted in the police courts and 31 in the Criminal Court. Fifty-three of the penal group were convicted in the police courts and 41 in the Criminal Court.

After eliminating those who were convicted in each group it was found that of those remaining, 63 of the probation group were identified by the Social Service Exchange, as compared with 42 of the penal group. Twenty-eight in the probation group were known only to the Prisoners' Aid Association, while 14 in the penal group were known only to that organization. It appears therefore that the probationers, as a group, presented a greater problem to the various social agencies than did the penal group.

*This is in contradiction of the theory that the families of convicts are the greatest sufferers and often become charitable or public charges. Frequently a man in the penitentiary is infinitely more valuable to his family than he is when at liberty. Instances are not lacking in which convicts have contributed more money to their families while incarcerated than they did when not confined. The moral influence on the household, the unrest and uncertainty occasioned by the criminal's presence frequently has a ruinous effect. The removal of such an influence for a long period not infrequently causes some member of the household to measure up to the responsibility thrust upon him.*

The development of the prison system so as to make it possible for the prisoner to earn more money and a legal provision by which his earnings could be applied to the support of his family or the family of his victims would seem to offer a partial solution. Progress in the Maryland Penitentiary along this line has been most marked. *The institution is practically self-sustaining and bids fair in the near future to show an actual profit while at the same time still making it possible for the inmates to earn an average of over \$200 yearly for themselves.*

#### INTERESTING FACTS

In studying the original sentences served by those in the penal group some interesting facts were developed. It was found, for example, that the 211 convicts who were not subsequently convicted in Baltimore served on an average a somewhat longer term than did those who were again convicted. Taken as a whole, the average sentence served by those who were not again convicted was two years and two months, whereas those again convicted served only one year and nine months. Sixty per cent. of those in the penal

group who were not again convicted served more than a year, while only 44 per cent. of those who were again convicted served more than a year.

The following tables set forth the facts regarding each group:

ORIGINAL AND AVERAGE SENTENCE SERVED BY THE 211 IN THE PENAL GROUP WHO WERE NOT AGAIN CONVICTED

3 months .....	7
6 months .....	10
1 year .....	68
18 months .....	19
2 years .....	38
3 years .....	23
4 years .....	11
2 years 6 months.....	9
5 years .....	21
15 years .....	1
6 years .....	3
8 years .....	1
Average Sentence.....	2 years 2 months

ORIGINAL AND AVERAGE SENTENCE SERVED BY THE 94 IN THE PENAL GROUP WHO WERE SUBSEQUENTLY CONVICTED AGAIN

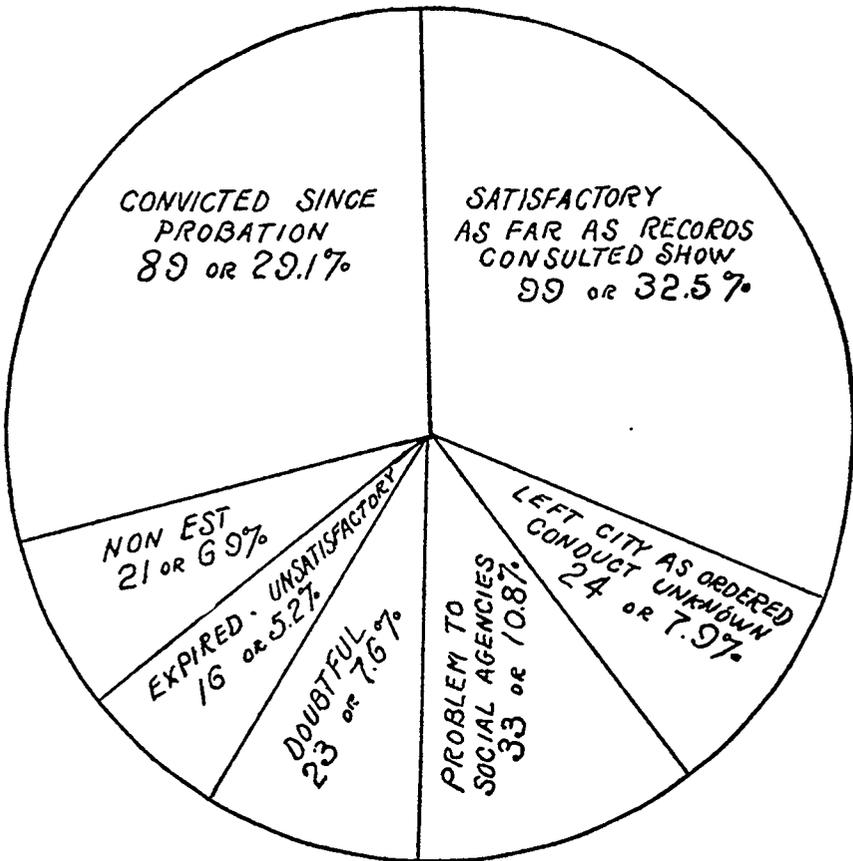
3 months .....	3
6 months .....	4
1 year .....	46
18 months .....	10
2 years .....	12
2 years 6 months.....	1
3 years .....	10
10 years .....	1
5 years .....	7
Average Sentence.....	1 year 9 months

Considering the 305 probation cases handled by the Probation Department, we find in summarizing all data collected that 89 were convicted, 21 were "Non Est," 16 cases expired "Unsatisfactorily," 20 cases "Doubtful" and 3 being held for other authorities or awaiting trial. This means that probation in 149, or 49 per cent., of the cases handled by the Probation Department was definitely not successful, and this is without taking into consideration the 33 cases in which the probationer was a known problem to one or more of the social agencies of the city.

The accompanying chart shows the result in graphic form.

AS TO THE PENAL GROUP

Since no information regarding the penal group other than arrests, convictions and the number known to social agencies could be secured, it would evidently be unfair in any comparison of the actual



results of the two forms of treatment to use the information supplied by the Probation Department concerning the conduct of those having no arrest, conviction or social agency record. Undoubtedly many of those in the penal group who have no subsequent local arrest or conviction record are still anti-social individuals just as were those in the other group about which we happen to have more information.

The following table, therefore, shows the comparative results of probation and penal treatment as it has in the past been actually working in Baltimore City, as viewed solely from the standpoint of arrests, convictions, and the matter of being a problem to the social agencies.

COMPARATIVE TABLE SHOWING THE SUBSEQUENT CONDUCT OF INDIVIDUALS IN THE PROBATION AND PENAL GROUPS.

Probation Group		Penal Group
305	Total Number Studied.....	305
158	Number Whites.....	119
147	Number Negroes.....	186
112	Number Arrested.....	109
243	Times Arrested.....	339
89	Convicted .....	94
31	Criminal Court Convictions.....	41
58	Police Court Convictions.....	53
63	Problem to Social Agencies.....	42

## WHICH METHOD IS BEST?

What conclusion can be reached from the facts as presented? Is penal treatment to be desired to probation? How can both be improved, to show greater returns? These questions naturally arise, and at least an attempt to answer them will be made.

The first conclusion naturally would be that the subsequent conduct of the probation group is little, if any, better than that of the penal group. This is likewise true despite the fact that the penal group, as a group, represents a more hopeless type of offender. Furthermore, many in the convict group had previous prison records and a number had also been given probation or parole, or both, at other times during their careers. In addition, a much larger percentage of the penal group were negroes. This is important because measured on the basis of 100,000 population of each race, the commitment of negroes is about two and one-half times that of the Whites. (Figures for United States.)

## CONDUCT NEARLY ALIKE

Since the subsequent conduct of both groups is so nearly alike, we must not lose sight of the fact that those in the penal group were at least deterred from further depredations during the term of their confinement, while the probation group continued their dangerous and costly anti-social acts without interruption. It costs the taxpayers 10.2 cents a day to maintain a prisoner in the Maryland Penitentiary. The cost of such supervision of probationers, as has in the past been given, costs 5.4 cents a day. This, however, is only a fraction of the real cost. There is no accurate way of calculating the cost to the public of the depredations of violators of probation as it is found to work in actual practice in Baltimore City. The cost of apprehending, trying and convicting probation violators is in itself a big item. A glance at the graph printed with this article

shows that as a group the probationers studied are parasitic rather than productive, and admittedly this is only part of the truth if *all* the facts concerning them were known. On the other hand, the average prisoner in the Maryland Penitentiary earns for his own use \$200 yearly. Many prisoners thus are a greater financial asset to their families in the penitentiary than they are out of the penitentiary.

#### COST OF PROBATIONER

In the light of these facts it would seem apparent that the often repeated and generally accepted statement that a man on probation costs only a fraction of the maintenance cost of a convict in a penal institution is without foundation in fact in Baltimore City.

*As the Commission has often stated, and again emphatically repeats, probation in theory is as sound as it ever was. We are concerned, however, with probation in fact after its use in this State for more than 30 years. How, then, can both probation and penal treatment be made to show greater returns?*

Dean Roscoe Pound of Harvard University has very aptly pointed out that "one of the most insistent demands of today is for individualization of criminal justice, for a criminal justice that will not return recidivists through the mill of justice periodically at regular intervals, nor on the other hand divert the youthful occasional offender into an habitual criminal by treating the crime in his person rather than the criminal."

This can only be accomplished by an actual and not a theoretical individualization of treatment, which means:

First—Careful selection of those to be placed on probation without sentiment or emotion. Such selection to be made only after a thorough preliminary investigation, including a careful search of all known records and a full study of the probationer, his habits, home life, employment record, education, training. etc. Nor should any statement made by the probationer be accepted without careful scrutiny and a rigid check-up.

Second—That a plan of adjustment be formulated for the probationer which is carefully individualized and fitted to meet the needs of each delinquent, which plan must be accepted by the probationer.

Third—That no probation officer be given more cases than it is possible and practical for him to properly supervise, counsel and help readjust. This would include considerable individual work with each probationer.

Fourth—That violations of probation be promptly dealt with, to the end that those given the benefit of conditional release from serv-

ing a sentence be taught to take probation seriously. A study recently completed showed numerous examples of offending probationers being brought before the court, following which the warrant was quashed and probation again continued.

Additional statistical data upon which this report is based follows:

PENAL GROUP—TABULATION SHOWING THE VARIOUS OFFENSES FOR WHICH MEMBERS OF THIS GROUP WERE CONVICTED

<i>Of the 50 Who Were Convicted Only One Time</i>		<i>Of the Two Who Were Convicted Five Times</i>	
Offense	Number of Convictions	Offense	Number of Convictions
Desertion and Non-Support	3	Assault	2
Larceny	8	False Pretenses	3
Burglary	2	<i>Of the One Who Was Convicted Six Times</i>	
Robbery	1	Disturbing Peace	2
False Pretenses	1	Disorderly Conduct	3
Assault	9	Assault	1
Vagrant	2	Robbery	1
Disorderly Conduct	12	Larceny	1
Fail to Drill	1	Destruction of Property	1
Disturbing Peace	7	Burglary	5
Cruelty to Animals	1	Disorderly Conduct	1
Sunday Work	1	<i>Of the One Who Was Convicted Seven Times</i>	
Drunk	1	Disturbing Peace	2
Violation of Ordinance	1	Disorderly Conduct	3
<i>Of the 19 Who Were Convicted Two Times</i>		Assault	1
Disorderly Conduct	10	<i>Of the One Who Was Convicted Eight Times</i>	
Disturbing Peace	5	Disorderly Conduct	6
Assault	8	Disorderly Conduct	2
Deadly Weapon	2	Drunk	3
Burglary	4	Vagrant	1
Larceny	7	Felonious Entry	1
Bets on Races	1	<i>Of the One Who Was Convicted Nine Times</i>	
Manslaughter	1	Disorderly Conduct	7
<i>Of the 10 Who Were Convicted Three Times</i>		Assault	2
Assault	7	<i>Of the One Who Was Convicted Eleven Times</i>	
Disorderly Conduct	6	Burglary	10
Disturbing Peace	6	Robbery	1
Burglary	3	<i>Of the One Who Was Convicted Seventeen Times</i>	
Larceny	4	Vagrant	14
Desertion and Non-Support	1	Disorderly Conduct	1
Deadly Weapon	1	Disturbing Peace	1
Robbery	1	Drunk	1
Murder	1	<i>Of the One Who Was Convicted Thirty-two Times</i>	
<i>Of the 6 Who Were Convicted Four Times</i>		Vagrant	7
Disturbing Peace	2	Begging	2
Disorderly Conduct	5	Disorderly Conduct	18
Deadly Weapon	1	Drunk	5
Robbery	8		
Larceny	7		

PROBATION GROUP—TABULATION SHOWING THE VARIOUS OFFENSES FOR WHICH  
MEMBERS OF THIS GROUP WERE CONVICTED

*Of the 63 Who Were Convicted One  
Time*

Offense	Number of Convictions
Violation of Probation..	5
Prostitution .....	2
Burglary .....	4
Robbery .....	1
Assault .....	10
Larceny .....	8
False Pretenses.....	3
Violation of Ordinance..	1
Forgery .....	1
Bastardy .....	1
Desertion and Non-Sup- port .....	2
Deserting Army.....	1
Disorderly Conduct.....	12
Violating Park Rules....	1
Drunk .....	2
Disturbing Peace.....	7
Deadly Weapon.....	1
Trespassing .....	1
Vagrant .....	1
<i>Of the 14 Who Were Convicted Two Times</i>	
Disorderly Conduct.....	7
Disturbing Peace.....	12
Assault .....	4
Throwing Glass.....	1

*Of the 7 Who Were Convicted Thret  
Times*

Offense	Number of Convictions
Deadly Weapon.....	4
Assault .....	7
Disturbing Peace.....	6
Disorderly Conduct.....	3
Failure to Answer Sum- mons .....	1
<i>Of the One Who Was Convicted Four Times</i>	
Assault .....	1
Disturbing Peace.....	3
<i>Of the Two Who Were Convicted Five Times</i>	
Disorderly Conduct.....	4
Assault .....	3
Larceny .....	1
Disturbing Peace.....	2
<i>Of the One Who Was Convicted Six Times</i>	
Disturbing Peace.....	5
Disorderly Conduct.....	1
<i>Of the One Who Was Convicted Twelve Times</i>	
Disorderly Conduct.....	10
Drunk .....	2