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WHAT THE COURTS, THE PRISONS, THE EMPLOYER AND THE PUBLIC SHOULD KNOW OF THE RELEASED PRISONER*

AMOS W. BUTLER**

Doubtless there are a number of different answers to this question. Each country has its code of laws and its system of institutions. Each of the states or provinces under the general government has its own laws and its kind of prisons. Different countries and different jurisdictions even with similar laws have different ideas and methods of applying those laws.

In this paper I shall speak concerning the United States of America and make reference to the Dominion of Canada.

In the United States the Federal Government and each of the forty-eight states—making forty-nine in all—has its own code of laws.

Fifty years ago there was little or no cooperation between the courts and prisons. That was the period of the treatment of convicts enmasse, the time of definite sentences. That was before the time of the individualizing of punishment; before much use had been made of the indeterminate sentence law; before many reformatories had been established or reformatory methods were applied to state prisons.

Then prisoners were released at the prison door at the expiration of sentence—in some states less commutation or “good time”—with no one to get them employment or act as friend and supervisor. In a few prisons that may be true today.

In most jurisdictions progress is being made in the individualization of offenders. Probation and parole are being more widely used. Probation is applied in most of the states of the Union.

We should distinguish between probation and parole. Parole means the conditional release of a prisoner from an institution. Probation means the conditional release of an offender who has not been sent to an institution. In either case proper supervision by capable parole or probation officers is essential.

Parole is not an act of clemency, as some seem to think. It

*Presented at the Xth International Prison Congress at Prague, Czechoslovakia, August 24-30, 1930

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is a method of releasing a prisoner under the continued custody of the state in an attempt to readjust him to community life.

Paroles are of three kinds and are often confused in the public mind: (1) Parole under the indeterminate sentence law; (2) Parole under a definite sentence after serving a portion of the time as provided by the laws of several states and of the United States; (3) Paroles granted by the Executive under his constitutional right of executive clemency. But none of these is in fact parole unless the prisoner is put under the oversight of a competent, friendly parole officer.

Parole laws are in effect in all of the states of the Union except two: Virginia and Mississippi, and are used in the Federal prisons. The indeterminate sentence and parole law in some form is in operation in all of the United States except eleven, but not in Federal institutions.

Under the old system of definite sentences the court was not interested in the prisoner and he was forgotten after sentence was pronounced. Now the treatment of the offender is a part of the administration of the criminal law. It is becoming more and more evident that the court should know of this treatment and of his history. The more it knows, the better the results. It is not enough to have such laws. Their practical application will be most effective by a complete understanding between the courts and the institutions and by their sympathetic cooperation.

That is manifest in one state after another as modern laws, institutions and agencies are adopted. In most of the states there is an exchange of information and records between the courts and the institutions. The judges of criminal courts appreciate such cooperation. They realize that the progress that has been made in certain states is but an earnest of further developments that will help in the administration of criminal justice.

The value of all this information is increasing as uniform records are adopted and central record bureaus are established.

At the London meeting of this Congress I stated, in at least seventeen of the United States judges regularly make reports and recommendations to the prisons. Such reports are required by law in seven states.¹ In some states, as in Pennsylvania, the prison authorities are required by law to make reports to the court.

The judges and other court officers in some states are finding it of value to their work to visit the institutions to which they commit

¹Butler: "The Individual Treatment of the Offender." Acts of The International Prison Congress, 1925, Vol. II, p. 357.

persons and from time to time to attend a meeting of the parole board. They are welcomed. In that way they learn what information they can supply the institution and what in turn the institution can furnish the court.

It is essential that the institution administrator get his message over to the court and on the other hand, that the court get its message over to the institution head. Why shall not the importance of these things be iterated and reiterated by all our law schools?

In connection with this question I have endeavored to obtain the facts from 18 states. This will give a cross section of our country. It includes states from California to Massachusetts and from Minnesota to Florida. Replies were received from all those states but one (Iowa), from two United States penitentiaries and one District of Columbia institution; also seven Canadian institutions. As a result of the inquiry made I give a report.

Twelve reformatories for young men or women (generally from 16 to 30 years old) all operating under the undeterminate sentence and parole law, with supervision for parolees.

The first figures show the per cent of parolees in proportion to the total number of persons released in a year. The next figures for the same period show the per cent of those discharged (not paroled).

	Per Cent Paroled	Per Cent Discharged
Connecticut	94	6
Indiana	99	1
Illinois	83.96	16.04
Massachusetts	97.8	2.2
Massachusetts (Women)	68	18
Minnesota	45	55
Nebraska	60	..
New Jersey	100	..
New York (Men).....	98	2
New York (Women).....	100	..
Ohio	97	3
Pennsylvania	70	30

It will be observed at most of the older reformatories practically all inmates are released on parole. It is understood every employer knows the parolee is from a reformatory. Usually the institution supplies the prisoner's history so far as it is known. However, there are exceptions. Unless friends obtain employment for those paroled the State does so, and supervises them until they are released from supervision. Generally monthly reports certified by their sponsors are required from each prisoner. However, in Massachusetts at the beginning of parole, reports are required weekly or bi-weekly.

Fourteen states replying have the indeterminate sentence in some form in their state prisons. The first figures show the percentage paroled of the total number released in a year and the other figures for the same period, the number discharged (not paroled).

	Per Cent Paroled	Per Cent Discharged
Connecticut	50	49
Indiana	92.8	7.2
Indiana—Woman's Prison	95	5
Illinois State Prison, Joliet.....	80	20
Illinois State Prison, Menard.....	89.38	10.62
Illinois Woman's Prison.....	83.33	16.67
Kansas	70	..
Massachusetts	88	12
Minnesota	33 $\frac{2}{3}$..
Nebraska	35	..
New Jersey (a).....	51	49
New York (a).....	65 to 70	..
North Carolina (1927).....	13	87
Ohio	99	1
Pennsylvania (b)	80	20
Wisconsin	21.8	78.2
California, on parole 25% of population.		

(a)Percentage of indeterminate sentence cases paroled.

(b)The minimum sentence may not exceed one-third the maximum. Some states recently have passed laws for definite sentences for certain crimes without any provision for reduction by commutation or "good time." Under such conditions the situation is very unsatisfactory.

Of states that do not have the indeterminate sentence but release some prisoners by parole:

Florida	20	80
Kentucky (c)	31	62
		(7% deaths, etc.)

UNITED STATES PENITENTIARIES

Commitments by definite sentence. Releases by parole possible after serving one-third of sentence:

Leavenworth (c)	10	80
McNeil Island	15	85

(c)Discrepancies in figures may be explained by deaths, transfers to other institutions, etc.

DISTRICT OF COLUMBIA REFORMATORY

Definite sentences. Paroled 25 to 40%. Discharged 60 to 75%.

All the states replying, operating under the indeterminate sentence law, numbering 14, do the following things: Find employment for and supervise paroled prisoners who are required to report at least monthly. Reports must be verified by the employer. Give employer

the prisoner's history. As a general rule information regarding the prisoner's history is not supplied to other persons unless it be to societies and organizations for aiding discharged prisoners.

In thirteen states the courts, and in eleven the police are upon request supplied with the prisoner's record. Some states not having indeterminate sentence furnish information requested by courts and police also.

Warden Lewis E. Lawes of Sing Sing Prison says under their present system all prisoners released are placed on parole. Definite sentence prisoners remain on parole to serve the "good time" earned off their term. The same rule regarding employment and assistance given applies to them. If they do not work when employment is secured for them and have no good reason, it constitutes a violation of parole and they can be returned to serve the remaining part of the term.

Lt.-Col. Thomas Cowan of the Salvation Army prison work says "we cannot vouch for and stand behind the discharged prisoner as we can the paroled prisoner. We have no authority over the one discharged. The paroled men get the best jobs. Every prisoner should be released by parole, not by discharge."

Rev. Dr. Henry Chapman Swearingen, for fourteen years a member of the Minnesota Board of Parole, states: "In my opinion it is a fault of our system that no provision is made for after care, under the supervision and authority of the Board of Parole, of those who serve their full maximum sentence.

Dr. R. F. C. Kieb, New York Commissioner of Correction, states in most instances the employer is notified of the parolee's previous social history except where the men are placed as ordinary laborers.

J. A. Johnston, Director Department of Penology, California, former warden of San Quentin Prison, says: "I have never noticed any ill results from giving full information to prospective employers of paroled men. On the contrary harm is likely to result to a man when his record is concealed from his employer."

Oscar Lee, Warden State Prison, Waupun, Wisconsin: "It is our opinion that it pays to be absolutely honest and frank with prospective employers of either paroled or discharged prisoners. It has been our experience that very few employers will refuse our request when it is presented in the right way. On the other hand, if employment is solicited and the employer not informed he has just reason to feel when he later learns the history of the prisoner in question that we have not been honest with him."

Warden P. E. Thomas, Ohio Penitentiary: "From my twenty-five years experience in our state I am led to believe that a paroled prisoner has as good a chance, if not better, than the average citizen, in securing employment. This has been brought about primarily by education. Dr. J. A. Leonard started it about thirty years ago and I have followed that course during the last twenty-one years. Many firms today stand ready to employ our men so that we have very little trouble in finding work for them. I find that it is largely an attitude of the public mind, and can be better overcome by paroling instead of discharging prisoners."

Superintendent T. C. Jenkins of the Ohio State Reformatory, is of much the same mind.

Mrs. Jessie D. Hodder, Superintendent Reformatory for Women, Framingham, Massachusetts, says: "If I were placing paroled and discharged prisoners I should use my own judgment about telling the employer a prisoner's previous criminal history. It would depend on the prisoner, the type of person she was and the prognosis in her case."

President R. B. von Kleinsmid, University of Southern California, formerly Psychologist and Associate Superintendent Indiana Reformatory: "If the prisoner is to receive just and reformatory treatment, his past must be understood as fully as possible by those responsible for his case. On the other hand, in justice to the employing public, as much of his past as would enable them to understand him must be given to them. The solution of what appears to be a conflict, in my opinion, lies in the proper attitude both of the public officers and of the employing party. The gospel of 'another chance' must be the motivating influence until the prisoner has really re-established himself in society as an upright citizen."

The information following shows briefly what is done in each of the states in supplying information to employer, courts and police:

Connecticut. Reformatory. Employer told criminal history, attitude in the institution and our opinion as to the type of young man he is.

Supply courts upon request with information.

Connecticut. State Prison. Tell employer frankly all about prisoner's criminal record when asked. Also tell the courts.

District of Columbia. Tells employer all essential pertinent facts. Courts and police are supplied with information.

Florida. Employer told prisoner's criminal history, as are courts and police.

Illinois. Policy to advise all employers that the employe is on parole.

Indiana. State Prison. Employer told man is a paroled prisoner. Information given courts and police on request.

- Indiana. Reformatory. Give employer, courts and police information when asked.
- Indiana. Woman's Prison. Employer, courts and police given prisoner's history.
- Kansas. State Prison. Tell employer of the man's history, also courts upon request.
- Kentucky. Reformatory. Tell employer the offense, length of sentence, something of prison record and attitude. Supply courts information when asked.
- Kentucky. State Prison. Employer usually knows prisoner's history before parole. Court supplied on request.
- Massachusetts. State Prison. As a rule tell employer nothing. In most cases they know the man. Give information to courts and police when asked.
- Massachusetts. Reformatory. Tell employer he is a Reformatory inmate and anything further we think he should know.
- Minnesota. State Prison and Reformatory. Tell all about his history to employer and upon request to courts and police.
- Nebraska. State Prison. Depends upon each individual case.
- New Jersey. Reformatory. Tell the employer he is from Reformatory. Supply courts and police upon request.
- New Jersey. State Prison. If placed in position of trust, furnish employers with information. Also courts and police supplied upon request.
- North Carolina. State Prison. All prisoners are paroled under supervision of County Superintendent of Public Welfare. Practice to supply courts upon request with information.
- New York. State Prison. In most instances the employer is notified in reference to parolee's previous social history except in cases where men are placed as ordinary laborers.
- New York. Reformatory. Inform employer of history at Reformatory and supply courts and police with information.
- New York. Reformatory for Women. Information given employer depends entirely upon circumstances.
- Ohio. Reformatory. Usually the actual facts in the case are revealed to the employer. Information supplied courts and police upon request.
- Pennsylvania. Western State Penitentiary. We tell the employer the prisoner's story and also supply information to courts and the police upon request.
- Pennsylvania. Reformatory. Employer is given full information if requested, so are the courts and police.
- Wisconsin. State Prison. Give the employer a frank statement of the prisoner's history, as we do the courts and police when requested.

FEDERAL PENITENTIARIES

Information was received from two Federal penitentiaries, Leavenworth and McNeil Island. United States courts commit convicts to them for definite terms. Prisoners are entitled to appear before the

parole board after they have served one-third of their sentence of more than a year.

United States Penitentiary, Leavenworth, Kansas. Paroled prisoners are required to have some kind of a position to go to when they leave the institution. In most every case the prisoner himself secures this position and the employers of course are given full advice as to the man's criminal history in so far as his service here is concerned. We supply reports to all authorized officers of the law (judges, state's attorneys, police) with information concerning the prisoner's criminal history and it is not supplied to any others except near relatives.

In several prisons of the United States practically all the prisoners released are paroled under the indeterminate sentence law. That means the treatment of the prisoner rather than the offense. It is a matter of individualization. It means the cooperation of the court and prison both at the beginning of incarceration and at the time of release upon parole. It also means interesting an employer or sponsor in doing what he can to re-establish a parolee in society. In the first place, upon the reception of a prisoner the information and advice of the court is sought by the prison officers for help in dealing with the offender. Later, before parole is considered, the advice of the court is sought. On the other side, most institutions upon request supply to courts and the police information regarding the personal history of the offender. If friends do not find employment for the paroled man or woman, the State does, and regularly supervises him afterwards until his final discharge. The employer, too, is usually informed as to the history of the one on parole. The latter must make regular (usually monthly) reports which are verified by the employer or sponsor as long as regularly required. That is usually one year.

In most states reports are required monthly for one year. However, others vary somewhat from that rule. Massachusetts requires weekly reports from the parolee for the first month and monthly reports thereafter. Illinois requires reports from him for the full maximum term of his sentence, for the first year once a month, fewer each year until the fifth year and thereafter, once each year. The New York State Reformatory at Elmira requires monthly reports for two years, when the person may be discharged. The chief criticism in recent years has not been of the principle or of the law, but in some states, of its administration and of the supervision of the parolees. In certain states not enough care is taken in authorizing paroles and there are not enough competent parole officers to exercise proper supervision.

The more experienced prison officials do not think it proper, as a rule, to place prisoners in employment without mentioning to the employer his previous criminal history. Of course with the increasing use of parole, employers necessarily know that all paroled prisoners come from a penal or reformatory institution.

While many prisoners return to their old homes where their history is known, prison administrators generally do not think it is permissible to supply information regarding them to other persons in the community.

CANADA

In the Dominion of Canada are both Federal and Provincial prisons. There are six Federal penitentiaries which receive all prisoners committed for two years or more from the entire Dominion. Each Province has one or more prisons. To them are sent all prisoners committed for less than two years. Seven institutions in Canada reported.

Brigadier General W. S. Hughes, D. S. O., V. D., Superintendent Canadian Penitentiaries, says: "The six Dominion institutions do not have prisoners under indeterminate sentence. Prisoners have definite sentences and are paroled. The employer is told all that is known about the ex-inmate. Courts and police, upon request, are also given such information. Forty per cent are paroled; fifty per cent are released at the expiration of sentence; ten per cent are deaths, etc.

C. F. Neelands, Superintendent of The Ontario Reformatory at Guelph, reports that institution has prisoners under both indeterminate and definite sentences. Ontario has a parole board which deals with paroles, visits and supervises parolees. Employment is found for both prisoners paroled under it and under the definite sentence law. From this institution forty per cent are paroled, fifty-two per cent discharged, eight per cent deported, fines paid, etc. The employer is told of the prisoner's criminal history. The same is told to the courts and police upon request.