Journal of Criminal Law and Criminology

Volume 22
Issue 5 *January*

Article 1

Winter 1932

Editorials

EDITORIALS

BRUCE SMITH AND THE CHICAGO POLICE DEPARTMENT

On January 21, 1929, Commissioner Russell of the Chicago Police Department addressed a letter to the President of Northwestern University, the Acting President of the University of Chicago, and the Presidents of the Chicago Crime Commission and American Institute of Criminal Law and Criminology requesting that a study of conditions at that time existing in the Chicago Police Department be made by an impartial and unprejudiced body appointed by the Presidents to whom the letter was addressed. The purpose of the study was to offer a basis for the solution of the many serious problems then confronting the Police Department and for informing the public of the needs of the Department. In this communication the Commissioner did not attempt to enumerate all of the matters that would suggest themselves after a comprehensive study or survey should be undertaken, but did suggest specifically the subjects in which he was particularly interested—man-power of the Department, a system of record keeping, and housing. In substance the Commissioner suggested that a plan for the complete re-organization of the Department be formulated.

The invitation was at once accepted by the Presidents of the four institutions to whom the letter was addressed and on January 31, 1929, they appointed a Committee of eight to represent them and to take charge of the immediate direction of the study. The Committee of eight, after perfecting an organization, appointed an Advisory Committee composed of some fifty distinguished Chicago citizens to assist it in its work and in presenting the result of the study to the citizens of Chicago. The Committee of eight then sought the advice of the National Institute of Public Administration, New York City, in an effort to secure the services of a police expert as director of the survey. Through the advice and assistance of this organization the services of Mr. Bruce Smith were secured. Mr. Smith immediately proceeded to organize a staff of investigators and presented from time to time interim reports which, after the approval of the Committee of eight, were forwarded to the Commissioner of Police for his consideration.

Funds for the support of the investigation were supplied by the American Institute of Criminal Law and Criminology and Social Science Research Committee of the University of Chicago and other private contributors.

Throughout the course of his study the Director confined his attention to the administrative function of the Police Department. Questions of police corruption were excluded.

The Report was completed and submitted to the Mayor, to the City Council, to the Police Commissioner, and to the citizens of Chicago, and its adoption recommended January 1, 1931. It was published in full by the University of Chicago Press in a volume of some 280 pages under the title of "Chicago Police Problems."

Mr. Smith has been retained by the City of Chicago upon recommendation of the Mayor to assist the Police Commissioner in putting into effect the recommendations of the plan for re-organization contained in the Report of the Committee. The work of Mr. Smith, insofar as the Report is concerned is unique in city police administration. Mr. Smith is doubtless the outstanding expert in the United States in police administration. He was graduated from Columbia University in 1914 with the degree of Master of Arts, and in 1916 with the degree of Bachelor of Laws. Since his graduation he has been almost continuously engaged with problems concerning administration of criminal law. He is the author of "The State Police; organization and administration," and has made survey reports on police administration in some fifty cities and twelve states, and police systems of England, France, Belgium and Germany.

In applying the recommendations of the report in assisting in the reorganization of the Department Mr. Smith and his staff will doubtless be concerned at first with the re-distribution of the present man-power to the end that the most effective police service may be rendered by the present approximate force of 6,800 men. The report shows that Chicago, while second in number of inhabitants in cities in the United States, is tenth in number of police department employees per thousand of population out of eleven cities having a population of over 500,000. It is apparent that under present financial conditions there can be no reasonable expectation of any increase in numerical strength of the force in the near future. That a more effective administration may be worked out with the present force is evident from the fact that on December 31, 1929, there were only 750 men, or 11 per cent of the total force available to patrol on foot the 211

square miles of territory within the boundaries of the city. This number if divided into three equal shifts would allow about six policemen for patrol duty in each district at any one time.

Perhaps equally important with the problem of re-distribution of the present man-power will be the problems of installing a modern system of records, structural organization, management of personnel, re-organization of the bureau of criminal investigation, regulation and control of traffic and a plan for utilizing the police force to a greater extent than heretofore in prevention of crime through close co-operation with other agencies established for this purpose.

In the ultimate, however, it must be remembered that, as stated in the report, "The Mayor of Chicago, and he alone, can dictate the kind and quality of police administration which the city shall receive."

Mr. Smith's work during the next year in assisting in the reorganization of the Chicago Police Department will be viewed with much interest by other municipalities, as well as by the citizens of Chicago.

FREDERIC B. CROSSLEY.

THE SPRAGUE CASE

Some of the events which are herein narrated may not be classified as editorial material. But often there is much to be gained by the greatest use of factual matter. The story which will be related speaks for itself. It is not necessary to overburden the reader with editorial "thoughts." One who ponders over the events leading up to the Sprague trial and who studies the trial itself will be beset by a variety of questions difficult to answer and probably, if left alone, he will achieve a frame of mind entirely satisfactory to the most rabid writer of editorials.

In the early morning of April 14, 1931, a liquor party was in progress in an apartment hotel located on Wilson avenue, Chicago. At this party, commonly termed a "whoopee" party, there was participation by a number of women and their male escorts and under the stimulation of intoxicants, radio music, and their own personalities the natural result was considerable noise which affected disagreeably both the hotel management and the neighbors.

So far there is nothing unusual in the story but this party ended in tragedy and thus attracted the notice denied to thousands of

parties of the same type. The hotel management at the request of those whose slumber was denied called the police. Patrolmen Joe and Carl Johnson and Patrick Gallagher answered the call, warned the guests to be quiet, and then left. This was repeated sometime later. Finally, the police made a third visit and this time, as the door was opened the host, F. G. Sprague, a retired broker of sixty years of age, fired two shots, one of which wounded patrolman Gallagher. Sprague was disarmed and Gallagher was taken to a hospital with a bullet in his abdomen. He lingered until the next day and then died, leaving a widow and four children.

In a case of this kind obviously it is difficult to piece out the complete picture. Some of those who offered testimony later were drunk at the time of the shooting. After being taken to the station Sprague is said to have lighted a cigar and attempted to joke with the police. One of the women at the inquest giggled when the details of the "whoopee" party were discussed. One important witness never appeared and others may have been biased. But considering the whole testimony, it is believed that the details of the situation are more easily ascertained than in the average case.

Sprague was held to the grand jury without bail on April 15. A true bill charging murder was voted by the grand jury on April 16. It is interesting to note that when Judge Fisher of the Criminal Court denied bail he said, "As I see the case, the proof is evident and the presumption great." This remark was made after defense attorney O'Hara had argued that the defendant should not have been indicted for murder as the *crime was no more than manslaughter.*

Shortly thereafter the case was called to the attention of the Chicago Crime Commission. One of the companions of the deceased asked that the Commission take a hand as it was "a killing in cold blood." That request was not unusual. But, within a few days, there was talk to the effect that the widow had been approached by an assistant state's attorney urging her not to press the case in exchange for money payment. Also, there were rumors that inquest witnesses were being offered large sums of money not to appear. The Crime Commission took affidavits, brought the case to the attention of State's Attorney Swanson, and pushed it vigorously.

Sprague's indictment came up early in June. The case was called by Judge Fisher on June 19 and was continued to July 7. When the case came up that day it was put off until the September calendar. On September 11, the case was continued to October 26. When it was called on that day it was transferred from Judge Rudolph Desort

to Judge George Fred Rush and set for trial on November 11, with Assistant State's Attorney Ditchburne as prosecutor.

When the case was ready for trial the defense attorney asked each venire man if he would hold it against a man if he took a drink "now and then." There was no trouble at all on that score. At the trial a "key witness," Miss Bernice C. Collins, could not be found although it was brought out at the trial that the party had adjourned to her apartment temporarily and that the police had visited them there with a request for quiet.

At the trial the hotel clerk testified concerning the complaints about the noise. He declared he telephoned the Sprague apartment several times requesting that the windows be closed and the radio be turned off. The last call was after midnight and Sprague, or the person who answered the phone, roundly cursed the clerk saying that "it was his room and he could make all the noise he wanted to."

One of the women, a Miss Pierce, testified that after the celebrants returned from the Collins apartment to the Sprague apartment, where he had remained, they knocked on the door and Sprague opened it with a gun in his hand and said "Oh, I thought you were the coppers coming back to bother me. If they come around any more I'll shoot them."

The patrolmen who accompanied the deceased on the third and last visit to the Sprague door united in stating that at this time they found the door locked. They knocked and a voice within said "Come in." Immediately thereafter the door was jerked open and the shots were fired. The hotel manager, John Pendicks, said he was in the hallway outside the apartment and saw deceased hammer upon the door. "Suddenly the door was jerked open and I saw Sprague fire a shot with a revolver. The policeman fell."

At the close of the trial the prosecution demanded the death penalty.

For the defense there were no important witnesses except the defendant. He declared that a complaining neighbor, Dr. James B. Munn "had been threatening me earlier in the day," and that "I became frightened and fired when the door was opened." Elsewhere in his testimony he declared that, thinking the knocking was by Dr. Munn, he went to the door with the pistol in his hand and just as he reached the door "it burst open and struck his hand causing the weapon to be discharged." Dr. Munn admitted he had complained but positively denied that he had threatened Sprague.

The defense lawyer harangued the jury three hours. His argument was based (1) upon the old common law axiom that a man's house is his castle (even if it was an apartment), (2) that the shooting was a mistake, and (3) that the shooting was accidental. As to the accident, *two shots were fired,* and as to the defense of habitation theory, *the police knocked and were told to come in.* It seems certain that the defendant must have known that the police were at the door in view of the testimony of Miss Pierce. And as to the statement that defendant went to the door with a gun thinking it was Munn *what difference does it make whether defendant thought it was Munn or another?* As Mr. Ditchburne said at the trial "Even if you believe Sprague's story, he had murder in his heart when he fired. He may have meant to kill Dr. Munn or he may have meant to kill Gallagher," and in law it makes no difference whether a bullet shot in malice reaches the party intended or hits another. In this case the fact that a *mistake* was made is of no importance.

The jury deliberated two hours and returned a verdict of "not guilty." The explanation given by the foreman was "We just didn't believe that Sprague intended to kill the policeman."

Upon hearing the verdict the defendant said, "Thank God! I'm free."

Upon hearing the verdict the widow became hysterical and between sobs said, "I won't stand for it. *I want justice!* He killed my husband and made fatherless my four little children. I say he's got to pay!" Bailiffs led her out of the court room.

There was no evidence of jury manipulation.

Now, why drag this case up and parade it? Why is it worthy of notice? It seems significant in that there was no evidence that the jury was tampered with. Unfortunately a bad decision from an influenced jury happens occasionally, but that is a matter of small concern. But, here, the jury, which was not an unusual group of men at all, give no explanation for disregarding the instructions and evidence. We have been taught and we teach that such a case probably is murder and at least is manslaughter. And here the defendant *thanks God* for his freedom. Unless the defendant has given his thanks in the right direction, which is doubtful, he should thank the jury for its exhibition of *warped sentimentality* and *doubtful morals.* This kind of verdict is a rarity, of course, and should not happen again soon, but to the prosecutor it seems unfair, to the widow a perversion of justice, and to the ordinary run of citizens ominous.

NEWMAN F. BAKER.

THE HIT AND RUN DRIVER

Whereas the automobile takes a toll of somewhat over 30,000 lives annually in the United States, a large percentage of the casualties being credited to the so-called "hit and run driver," the problem of how to control accidents of this character seems to be just as far from solution as when it first developed. A search of the files of our daily press shows that in many instances the individuals at fault completely escape detection. In the relatively few cases in which their registration numbers are noted and an arrest effected, the percentage of convictions is woefully small. In most such instances the penalty awarded consists of the suspension of the driver's state license for a longer or a shorter period, with or without the addition of a county jail sentence. The verdict of manslaughter in such a case is almost unheard of, and when rendered, becomes cause for comment among the legal fraternity in the district where it occurs.

I may be queerly constituted, but to my untutored mind the crime of killing wantonly a fellow citizen and then fleeing the scene and attempting to conceal one's identity is much more serious than that of transporting in a motor vehicle a pint of intoxicating liquor. Yet we have laws, rigidly enforced, which constitute the latter act a felony, and which prescribe, in addition to other penalties, the confiscation of the vehicle involved. In short, the transportation of a pint of liquor, if detected, results in the forfeiture of the car, whereas the killing of an innocent citizen by the driver of that same car through reckless piloting of his machine, is considered, if the prescribed penalties have any significance, a relatively slight misdemeanor.

Were the laws covering hit and run driving so amended as to involve, apart from any other penalties outlined, the immediate confiscation of the car concerned, I am satisfied that the present situation would undergo material alteration. Automobiles have intrinsic value and we humans are most sensitive in our pocket nerves. We can bear with fortitude the suspension of our driving licenses for brief periods, but we would be immeasurably shocked at the possibility of having to buy a new motor car. Just why no efforts have been made to secure legislation along these lines is beyond me. It would apparently indicate that we consider the old traffic question as more or less of an amusing game with the pedestrian as the pawn. Should he be unfortunate enough to come to an untimely end through violent contact with a motor vehicle, it seems that he is to blame rather than the driver. Until our attitude on this point undergoes material altera-

tion I feel that our mortality figures will continue to mount. But if and when this alteration takes place, I am confident that my suggestion relative to confiscation of the vehicle would, if attempted, go a very long way toward correcting the existing situation.

CALVIN GODDARD.

THE MOTOR CAR AND CRIME

Contrary to common belief, the automobile is the chief weapon of the gangster. The pistol has long since ceased to be his most important arm, despite the violent outcries of those reformers who would prohibit the manufacture and sale of this once much valued weapon. The reason is that in all well planned crimes of modern times the perpetrators take pains to insure beforehand their escape from the scene of their depredations. In the period when the motor car did not exist, there were relatively no laws regulating the purchase, possession or transportation of small arms. Good men and bad men alike carried them if and when they chose, but the bad man knew that in case he used his weapon for criminal purposes he was, to employ modern parlance, "on the spot." He had his two feet, or his piebald pony, or a railroad train upon which to make his escape. And furthermore, the reputable citizen, armed like himself, was hot upon his trail. As a result the holdup, save in isolated cases involving small town banks, was practically unknown. Lacking a safe and ready means of escape, our criminally inclined gentry made their livings by other means, possibly no more legal but nevertheless much safer.

With the advent of the motor car, however, and the development of a generation untrained in arms and ignorant of their potentiality for good as well as for ill, an entirely different situation now presents itself. Well-meaning persons who have noted that firearms figure frequently in crimes, have succeeded in securing legislation which has so limited the distribution of these weapons that the decent citizen is, in most states, practically unarmed and wholly at the mercy of the armed assassin. Laws, as we well know, are obeyed, not enforced. The reputable householder, finding the purchase of a weapon hedged about with restrictions of all sorts, becomes discouraged and decides to do without one, whereas the crook continues to carry these tools of his trade and laughs at the restrictions, knowing that, if apprehended, the authorities will have plenty "on him" apart from the possession of a gun. At the same time he rejoices at

the legislative enactments which have disarmed his prey and encourages, as far as possible, the production of new statutes intending to make this disarmament more complete. But apart from this, the rapid development of motor vehicle transportation has made escape from a crime scene so easy and so certain that practically no well planned "job" is carried out today in which an automobile fails to figure.

Here again, if we wished, we have within our reach a solution to our problem, the effects of which can hardly be calculated. In addition to prescribing a penetentiary sentence for any gentleman carrying concealed weapons within a given space of time following his conviction for a felony while armed, statutes should be enacted making it felonious for such an individual *to ride in a private automobile for a certain number of years following his conviction!* Were this to take place, making it possible for our peace officers to apprehend and prosecute any ex-convict whom they found riding in a car within the time limit outlined, all our stick-ups, bank robberies, and gang murders would be reduced 75 per cent. Some hardship, it is true, would be worked upon the individuals concerned, but they would be free to employ duly licensed public service conveyances, in conducting any legitimate business in which they might be engaged, and society would be relieved of much of the menace which now hangs over it. I can imagine the cries of distress which would rise to heaven were such legislation seriously considered. All our gentlemen of the underworld and their even less respectable friends, the criminal lawyers, would go into paroxysms of distress over the unjust discrimination against themselves and their activities. Even so, the benefit to society which would promptly result, would more than compensate for the few instances in which former penetentiary inmates suffered real hardships as a result of such legislative measures.

CALVIN GODDARD.