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THE CLASSIFICATION OF FELONS IN A MID-WESTERN STATE PENITENTIARY

EDGAR W. VOELKER¹

A perusal of the penal methods of both ancient and modern civil societies seems to indicate that the treatment of the criminal in those societies has been motivated largely by the philosophy of punishment. While some criminologists affirm, others deny the existence of the punishment of crime in preliterate or kinship groups. Sutherland² states that "in primitive groups we find certain motives and attitudes that preceded punishment, but were not, in themselves, punishment: desire to annihilate the enemy of the group, sacrifice to appease or fend off the wrath of the gods, social hygiene measures to rid the community of pollution, self redress in cases of private injury and surprise and disgust at the person who injured his own family." Formal punishment with its desire not only to produce suffering, but also to prevent excessive suffering apparently had its origin in the more complex and heterogeneous societies. Faris³ contends that formal punishment "is the expression of the clashing of groups with a buffer group to lessen the shock. . . . There is necessary in any punitive situation an impartial umpire who has interests on both sides," namely, that of the offender and that of the injured party.

The motive underlying the attitude of punishment is not to explain the criminal act or to understand the criminal, but it is to satisfy a sense of injustice and wrong on the part of the members of the society in which the crime occurred. In the words of the late Professor Meade,⁴ "Hostility toward the law-breaker inevitably brings with it the attitudes of repression, retribution and exclusion. These provide no principles for the eradication of crime, for returning the delinquent to normal social relations nor for stating the transgressed rights and institutions in terms of their positive social functions."

Recently, the developments of criminological science have created a public opinion in favor of a new philosophy with respect to the treatment of the criminal. The attitude underlying this philosophy is

¹Assistant Professor of Sociology, State University, Moscow, Idaho.

²Sutherland, E. H., *Principles of Criminology*, p. 302.

³Faris, Ellsworth, *The Origin of Punishment*, *International Journal of Ethics*, V. 25, Oct., 1914, pp. 54-67.

⁴Meade, George H., *The Psychology of Punitive Justice*, *American Journal of Sociology*, V. 23: 1917-18.

diametrically opposed to the attitude of punishment. It is the attitude of studying the offender from the standpoint of science and basing a plan of treatment for him upon the findings disclosed by an analysis and classification of his behavior. From this point of view, the criminal is regarded, not as a member of a distinct species, but as a mal-adjusted person. Much as a physician approaches his patient who is physically ill, the criminologist approaches the criminal as a person who is socially and often mentally ill. He seeks to discover the factors which are responsible for his illness and then to control them for the future welfare of his patient and the larger social group. In the same way that the physician, upon the diagnosis of the illness, prescribes a form of treatment for his patient to make him well, so the criminologist, by means of an understanding of his physical condition, his intelligence and the social roles he has played in the various groups of which he has been a member, recommends a type of social treatment which is designed to effect the reformation of the offender as a normal member of a primary group and of the larger society.

The purpose of this paper is to describe and criticize the plan which was set up recently in the State Penitentiary of one of our mid-western states, providing for the individual study and classification of its felons. The discrepancies between the plan and its implications and the manner in which it is working will be pointed out. The statements are based on the observations of the author while a member of the Division of Criminology, Department of Public Welfare, during 1934, in the state to which reference is made.

In 1933 a statute in this state provided for the establishment of two diagnostic depots, located in the P and H units of the state penitentiary.⁵ There convicted criminals are sent to be studied and classified. Three experts—a psychiatrist, a psychologist and a sociologist, all civil service appointees, are in charge of this work in each of the diagnostic depots. The psychiatrist examines the offender with reference to the manifestation of mental disease. The psychologist gives group and individual intelligence tests to determine the mental age in each case. The sociologist secures the criminal record and the social history of the person, endeavoring to discover the roles which he played in the various groups of which he was a member. The findings of all three, in addition to the report of the prison physician, are included in the classification report of each incoming prisoner. Classification is based on chronological age, mental age,

⁵The letters *P*, *H*, *Y*, *N* are used to denote the four units of the state penitentiary in question.

physiological health, mental health, social history and experience in crime.

The law also provided for the incorporation of the various prisons in the state in a single system with a division of labor between the prison units. That is to say, first offenders of normal intelligence and normal mental health, ranging in age from 17-24, are cared for by the Y prison unit. First offenders of average intelligence, average mental health, 25 years or over, and residing in the northern portion of the state, are segregated in the N unit. All offenders who are characterized by mental deficiency or mental disease are segregated in the P prison unit; in addition, this unit cares for all normal first offenders over 25 years of age residing in the southern portion of the state. Habitual or professional criminals who are of normal intelligence and normal mental health are incarcerated in the H unit.

Obviously, the object of this arrangement is the segregation of various types of offenders—the younger men from the older men, the first offenders from the more experienced and hardened criminals, the mentally normal offenders from the mentally deficient offenders, and the more or less normal personalities from those suffering from nervous diseases. It is assumed that segregation will promote the reform of the young offender, the first offender and the normal offender by preventing their contact with those who are mentally diseased and more experienced in crime and also will make possible a different type of treatment for each particular group of offenders.

However, segregation in accordance with this classification, encounters a number of serious difficulties.

In the first place, the warden, who approves all transfers, has the privilege of retaining the men who are financially useful to the prison, whether logically they belong there or not. Then too, the distinction between first offenders and habitual offenders is a formal one. Technically, a first offender is one who has been convicted of his first felony. Actually, he may have participated in a number of felonies, without having been convicted or even apprehended and in many instances may have a long record of petty crimes and misdemeanors. The writer contacted many men in the P prison unit who were classified as first offenders but who had served short sentences in a number of jails, workhouses and houses of correction throughout the country. The purpose of the plan, then, is not carried out insofar as it fails to prevent contacts between technically first offenders (but in reality seasoned criminals) and between those who have taken their first step in crime. Again, the same rigidity is found in the distinction

between occasional criminals and habitual criminals. Technically, an occasional criminal is one who has been convicted of two felonies, regardless of the commission of many petty offenses or other felonies for which there have been no convictions. In spite of this fact, this type of offender is ordinarily segregated with the first offender. On the other hand, a man becomes an habitual offender in the eyes of the law when he has been convicted of his third felony. The difference of one conviction places the occasional offender and habitual offender in two different classes when, in some instances, the man who has been convicted of his third felony offers as much hope of reform as the man who has been convicted of his second felony. Finally, segregation is defeated by permitting the unrestricted contacts of the normally intelligent first offenders with psychopathic first offenders, psychopathic recidivists, mentally defective first offenders and mentally defective recidivists in the P prison unit. There is no attempt on the part of the prison administrators to rationalize the grouping of psychopathic with mentally deficient persons, although it is obvious that they represent two different types of personality defects which demand specialized treatment. The retention of a large group of normal prisoners is justified on the ground that their services are indispensable to the running of the various prison industries. Plans are now being carried out by means of which the psychotic prisoners may be segregated in a separate division of the P prison. This, however, will not include the psychopathic offenders.

Not only are the purposes of segregation of different types of offenders defeated by the rigid methods of classification, but also plant equipment and social organization which are needed to give each class specialized treatment are conspicuous by their absence. One assumes that scientific studies are made for the purpose of making such knowledge available for practical uses. However, in this case, the wealth of personal information concerning each inmate which has been acquired by the criminologist appears to have little use as far as implications for treatment are concerned. A study of the felons in this state penitentiary disclosed two significant facts, namely, that the majority of the inmates are unskilled laborers and have completed less than a sixth grade education. Suggestions that may be derived from this knowledge are that the opportunity to learn a trade and to continue their formal education would be of real value to these men in preparing them for life in the world outside when they are released from prison. Yet of all the prison units, only that of Y has made provision for giving its youthful inmates training in various trades

such as shoe-repairing, tailoring, printing, carpentry, etc. An adequate organization for vocational training in the other prisons is lacking, partly because it is assumed that older criminals would not benefit by such training and partly because the prison industries which are maintained are organized for the purpose of defraying the cost of operating a penitentiary. In the prison units of N, H and P, such industries as a laundry, clothing plant, ice plant, stone-crushing, auto-license plant, furniture factory, shoe factory, road work, fertilizer mill require largely unskilled labor and give no opportunity for learning a trade. Besides, it is difficult to see how knowledge of such work as crushing stone and road construction will aid the prisoner to make a vocational adjustment in the world outside. However, it is not doubted that experience in such occupations as mechanic, chauffeur, barber, cook and clerical worker will be of practical value in making a post-prison work adjustment. Probably work on the prison farm is more beneficial than any inside work because it is more healthful, not so monotonous and gives greater freedom.

Work placements are largely in the hands of the Yard Deputy in the prisons of N, H and P. Suggestions along this line made by the criminologist are often ignored. Sometimes such placements are made with the experience of the individual in mind; however, often they are made in order to punish or discipline certain offenders. It is the custom in the P unit to put the most desperate criminals such as murderers, sex perverts, psychopathic offenders and kidnapers at work on the stone pile. Often men with no other training than that of carrying newspapers or working on a farm are given work as orderlies or physician's assistants in the prison hospital. Again, men are transferred from one occupation to another not because of adaptability for such work but as punishment or discipline, or as rewards for good conduct.

Then too, the educational system in the penitentiary is not adequately organized, staffed or financed to meet the educational needs of the men. In this respect, also, there is a conflict between the existing educational organization and the implications of the classification law. It is generally recognized by criminologists that a suitable program of education would accomplish much in the way of changing attitudes and aiding the inmates to adjust to the outside social order upon release. The men in charge of the prison schools are guards who have little or no professional training. There are convict helpers in the H and N units. These men are usually selected with reference to their teaching ability. Instruction is regularly provided for only eight grades in all the prison units except that cell courses,

providing for instruction beyond the eighth grade are made available for inmates in the H and N prisons. Very little encouragement to attend school is given the inmates by the administrators of the adult prison units, P, H and N, partly because they think that the psychopathic or feebleminded convicts could not profit from instruction, and partly because of the notion that even the mentally normal will not be much benefited by education, as convicts must have a "bad" streak in them (perhaps inherited). Only 60 from a population of 2400 in the P prison attended school from September, 1933 to June, 1934, and the greater part of this number was enrolled in the first five grades.

In addition, library resources in all the prison units are very inadequate. The books are out of date, few in number and poorly classified. There are few up-to-date books of a scientific character; the greater part are books of fiction concerning crime, adventure, and western life. The list also includes worn-out autobiographies as well as religious reading. The chaplain is in charge of the library. Generally, he is not a trained librarian.

Organized recreation is limited to baseball teams, football teams, bands, orchestras, moving pictures and boxing matches. There is no director of recreation whose function it is to coordinate the various branches of recreation into a system. Only a few inmates participate directly. The vast majority are only spectators. The organization of leisure time is left to the initiative of the inmates themselves. This is spent chiefly in reading about crime, talking about crime, gambling and sex perversions. However, many of the more ambitious prisoners devote their leisure to making boxes, brushes and other useful articles which they attempt to sell.

Then too, the penitentiary lacks an adequately trained personnel which is a necessary element in carrying out treatment according to a plan scientifically determined. The warden, assistant warden and chaplain are political appointees and have no professional preparation in penology. The warden conceives his principal tasks to be keeping order among the convicts, to prevent escapes, to return escaped prisoners and to keep the prison industries running. He understands that his political reappointment will depend largely upon his success in accomplishing these objectives. He has little understanding of, and less concern with, the personal problems of the men under his control. He does not conceive of them as potential citizens of a democratic state. The guards are also political appointees. Candidates for these jobs take a civil service examination, but this is merely a method of choosing between one Democrat and another or between

one Republican and another. This examination is quite superficial and presupposes a knowledge of not more than an eighth grade education. Most of the guards are either farm laborers, unskilled factory laborers, or clerical workers and are without special training for the work they have to do. Their pay is small and their hours are long. They are expected to put in overtime, without pay, in search of an escaped convict. Their tenure of office is very insecure. The dominant attitude of these workers toward the prisoner is expressed by the following statement made by one of the guards to the writer: "You can't molly-coddle a convict; you have to treat him rough if you want to handle him." The guards are firm supporters of the philosophy of punishment and rigid discipline and are not in sympathy with the newer scientific attitude.

The discipline is standardized and formal. All inmates are expected to conform to the rules and the routine of prison procedure. It does not make possible individualized treatment on the basis of special needs of individuals. The superintelligent are given the same treatment as the feebleminded and the psychopathic offenders. Such methods as solitary confinement on bread and water, beating with a club, bawling out, transferring to another job with loss of privileges, loss of good time credits are used in disciplining the violators of prison rules.

In this connection, the criminologist might suggest the wisdom of reorganizing the prison government to the extent that participation in the government of his community be given the inmate. This is apparent when one realizes that it is difficult to reform the individual without changing the stimuli in his social and physical environment. One must also remember that the individual in prison is always a member of a group. Reconstruction work from this point of view is much more apt to bear fruitful results. Participation in the government of his community would help each prisoner to identify himself with the whole community and would enlist his cooperation with that of the prison guards and officials. He is either loyal to a smaller or a larger group. Training in the larger loyalty would seem to be the best preparation for citizenship in a democracy and adjustment to the life after release from prison. At present, however, the inhuman treatment and harsh discipline increases the resentment against the prison officials and all law and order. The inmates are driven back among themselves for sympathy. They develop a code of conduct which makes it an unpardonable sin for one convict to "squeal" on another. They develop a scale of values by means of which the daring criminal, the one who commits a "big job," as a bank robber,

a kidnapper or a murderer, receives the highest status in the prison community. There is only contempt for the forger, the burglar or petty chicken thief. Techniques of crime, vice and gambling are transmitted from the more experienced offenders to the novices in crime. "Bull sessions," reciting exploits in crime, gambling and homosexual activities are some of the ritual practices of the criminal group. The solidarity of this group is manifested on occasions of executions, escapes and riots.

The classification report prepared by the criminologist is studied carefully by the Parole Board in making their decision as to the time when the inmate's release from prison shall occur. However, the suggestions for release based upon the history and needs of the individual offender are not always acted upon by the Board. This is partly because their power of release is limited by statutes which fix the upper and lower limits of the sentence and partly by the custom which has grown up in determining standardized rather than individual procedures due to the numerous cases which the Board must consider each time it meets.

The first difficulty might be overcome by giving the sole power to fix the length of sentence to the Parole Board, basing its decision upon the study of the case. As the laws stand at present, there are different minimum sentences for different crimes. There is a minimum sentence of one year for such crimes as burglary, larceny, forgery, embezzlement, confidence game, manslaughter, robbery armed and certain types of sex offenses, but a minimum of 20 years for murder, kidnapping and rape. Here again we see that the length of sentence is apportioned to the character of the crime rather than to the character of the criminal. This contradicts the purpose of the classification of offenders.

The trend of the Board toward mass procedure can be checked by the selection of its members on a merit basis, by increasing their salaries and providing that their whole time shall be devoted to this work.

In this paper, we have attempted to describe the system of classification of felons in a mid-western state penitentiary and to point out the discrepancies between the purposes of the plan and the manner in which these purposes are being realized. Difficulties pertaining to segregation, treatment and parole of offenders based on their classification have been indicated. It was suggested that these difficulties were largely due to the conflict between the scientific attitude and procedure and the attitude of punishment in terms of which the existing prison procedure is organized.