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PROTECTING THE PUBLIC BY PAROLE AND BY PAROLE PREDICTION¹

ERNEST W. BURGESS²

In a democracy the final test of any public policy is that of public opinion. Parole, and in fact our whole system of criminal justice, must constantly be prepared to face trial in the court of public opinion.

And what is the attitude of the public to parole? To get the answer one has but to ask one's neighbor, to read letters from readers in the voice of the people, to peruse news columns and editorials in our daily papers. The so-called "average man" is doubtful, critical, hostile to parole. His opinion can be summed up in one sentence: "Why should the police go to all the trouble to arrest a criminal, the state's attorney to prosecute, the judge and jury to convict and sentence him and then have the Parole Board turn him loose on the streets to resume his criminal activities?"

What is the explanation for this attitude of the public?

As we all know, it runs directly opposite to the considered judgment of the great majority of criminologists and of practically all laymen who have given time and study to parole. Criminologists, jurists, representative citizens interested in penology are almost unanimous in favor of parole as an essential and valuable part of the system of criminal justice.

They point out that parole is "the conditional release under supervision of a person from institutional confinement before the expiration of his sentence." They emphasize the fact that it is the period during which the offender against society is being aided in making his adjustments to the community. They stress the principle that parole is a period of testing his willingness and ability to keep the parole regulations and to become a law-abiding member of society. And finally they call attention to the fact that release from prison upon parole is much better than release without parole, because release without parole gives no opportunity of supervision and leaves the confirmed offender free to resume unhampered his

¹ An address delivered before the American Prison Association Tuesday evening, September 15, 1936.

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criminal operations. In proof of this point they call as witness the professional criminal who is everywhere and always a bitter enemy of parole.

Some persons place the blame for the unfavorable attitude of the public to parole upon the newspapers. They maintain that the press presents only the failures of parole and never the successes.

There is some basis of fact, it must be admitted, to this charge. When a man on parole commits a crime, or is arrested as a suspect, the newspapers invariably feature the fact that he is a paroled man. Editorials are almost certain to appear critical of parole. The titles of a few characteristic editorials from Chicago papers during the past year illustrate this attitude: "The Busy Parolee," "Sloppy Parole," "Abolish the Parole Board?," "Reform Parole or Abolish it." The first mentioned editorial after enumerating five crimes by paroled convicts in three days concludes:

"The news in this record of three days is that there is no news in it: just the old story of criminals turned loose to carry on. But a growing number of citizens are wondering why they are paying taxes to maintain the parole system as it is."

It is, of course, well-known to all of us that parole failures make newspaper headlines while parole successes never see their names in print. Violation of parole is news, and it is news because of its significance to newspaper readers.

As a sociologist, I would be the last person to disapprove of the lively interest of newspapers and of their readers in parole. It is basically sound because it represents a concern of citizens in all walks of life with the problem of crime and its treatment. This interest and concern of press and public in parole should not be condemned. It should rather be recommended and utilized in the correction and improvement of the parole system.

And speaking now as a Chicagoan may I not add that the people of Chicago are proud of the record of our city in its fight against crime. So far as I know never in its history have its newspapers attempted to protect the reputation of the city at the expense of concealing conditions of crime and vice. Almost alone of the large cities of the United States, Chicago made open war on organized crime during the period of national prohibition even at the risk of being unfairly called the crime center of the country.

Today, Chicago is reaping the rewards of this valiant fight against organized crime and its alliance with politics. The year 1935 shows the lowest figures in years for major crimes known to

the police and the year 1936 promises still lower numbers. All the different factors responsible for this result cannot be determined and exactly equated. The Chicago Crime Commission gives credit to the reorganization of the police department and its efficient administration by the present police commissioner; to the state's attorney for his effective investigation and prosecution of cases; and to the judges of the Municipal Court and of the Criminal Court. Especially significant has been the coordination of the operations of all these branches of criminal justice in the breaking up of organized crime and its relation to politics.

But back of this fine achievement of the agencies of criminal justice has been the solid, undramatic, continuous and cumulative work of the Chicago Crime Commission and the publishing of the facts upon crime and criminal justice by the Chicago daily papers. Publicity, often pitiless publicity, has been the weapon relied upon by the representative citizens and the press of this community to win the war on crime.

It is, therefore, quite understandable why citizens and newspapers alike look with a critical eye upon parole as the one part of the machinery of criminal justice which may undo all that has been achieved by the police, the prosecuting attorney, the judge and jury, and penal confinement. In short, the citizen feels that he is being protected from the criminal by the police, the state's attorney, the court and the prison. He mistrusts parole, because he feels that it does not provide him security. He is fearful that through parole criminals are being turned loose to prey upon the public. He may sincerely believe that parole is a menace rather than a service to society.

But how can this public attitude against parole be changed?

Only, I am convinced, by demonstrating to the public that parole is an instrument for protecting the public. This task is not, in my judgment, an easy one. The basic reason for this is that parole work is the most difficult, as it is from the standpoint of social protection the most important, part of the procedure of criminal justice. It is most difficult because it is concerned with the actual work of the rehabilitation of the offender.

In crime, as with disease, prevention is much easier, less costly and more certain than cure.

Parole work is the most difficult phase of criminal justice for another significant reason. All the mistakes of the other phases of criminal justice come to a head in parole. If a judge fails to give

probation to a worthy case of a first offender and thus causes him in confinement to associate with hardened criminals and come under their influence, this mistake will show up in parole. If a so-called reformatory or prison fails to provide its inmates with work and industrial training to fit them for employment upon leaving the institution, this defect will also show up in parole. The parole system may, therefore, often be charged with failures for which it is not entirely responsible. The failures of our entire system of criminal justice, to repeat, accumulate and become evident in parole.

This means, then, that parole must be considered as an integral part of the entire system of criminal justice. It also means that the success or failure of men on parole measures the efficiency and the degree of coordination of our entire system of criminal justice.

Parole in particular and our system of criminal justice in general have two main objectives:

- 1) first, and foremost, the protection of society from the criminal;
- 2) second, and equally important, the rehabilitation of the criminal.

These two objectives are not in conflict with each other, they are, in fact, mutually inter-dependent. In the first place the best way to protect society from the criminal is to rehabilitate him, that is to say, to restore him to society as a law-abiding citizen. In the second place, if the protection of society is held as the actual guiding principle of prison administration and parole, the work of reforming the criminal and of crime prevention will be markedly advanced.

These two interrelated objectives, the protection of society and the reformation of the criminal, are indispensable to the successful workings of our prison and parole system. If these two goals are kept steadily before us we may be saved from the two extreme points of view which prison and parole officials as well as the public are too often prone to adopt. At the one extreme is the policy of severity and repression or as it is commonly called "treat the criminal rough." At the other extreme is the policy of leniency sometimes termed "coddling the criminal."

Both of these policies fail in protecting the public and in reforming the criminal. It is difficult to decide which is the more harmful policy. Experience has demonstrated again and again that undue severity increases criminality and so fails to protect the public. Likewise, the policy of leniency has been proven by re-

peated trials to fail in reforming the criminal and to endanger public safety.

The problem, then, is one of demonstrating to the public that parole can be organized and administered for its protection which, as we have seen, includes the rehabilitation of the criminal.

In my judgment there are six conditions essential for parole to reach a high level of efficiency in protecting the public:

1. The further development of adult probation so that the majority of actual first offenders who are found to have no confirmed criminal tendency be given the opportunity of reformation in the community under adequate supervision. In this way, society will be protected against the detrimental influence of their association in correctional and penal institutions with experienced criminals.

2. The introduction of a system of classification of inmates of penal institutions on the basis of which the men would be segregated according to the probability of their reformation and a program of individualized treatment be worked out for each inmate. This should include among other points correction of physical defects, additional school training whenever advisable, industrial education and appropriate work assignment within the institution.

3. The planning of a program of work and other activities within correctional and penal institutions, to utilize the inmates' time and to fit them for re-entering society. Because a job is the best single method yet known for getting men to "go straight" I would stress here the importance of providing in every correctional and penal institution the opportunities for work and industrial education which will fit men to get and hold jobs when they are released upon parole.

4. Preparing men for parole should begin as soon as they enter the institution. The prisoners should be informed that evidence of reformation such as good conduct, school progress, satisfactory work record, mastery of trade and industrial skills will be taken into consideration in granting parole. Friends and relatives should be informed that it is to the best interests of the prisoner to wait until he is prepared to return to the community and until the best possible plan has been worked out between the prisoner, his family and his parole adviser for his readjustment to society. It is evident that parole officers should be sufficient in number and qualified by personality, experience, and training to give effective assistance to

the paroled man in making satisfactory adjustments to his family, to his work and to his neighborhood.

5. Of central importance are high qualifications for the members of the Parole Board. In 1928 the committee which made its report on "The Workings of the Indeterminate-Sentence Law and the Parole System in Illinois" recommended that:

"The Parole Board should be taken out of politics as nearly as possible under our form of government. The members appointed should hold office for definite terms which should expire at different times and in such a manner as to free the Board from the pressure of political influence. The Parole Board should enjoy the standing and independence of the Supreme Court of Illinois in order to discharge fully its equally great responsibility, and the compensation of its members should be the same as that of the judges of the Supreme Court in order to attract and to hold men and women of the highest qualifications."

Colonel Henry Barrett Chamberlain of the Chicago Crime Commission in his recent report upon parole to Governor Henry Horner makes a more detailed and even stronger recommendation:³

An administrative Board with definite tenure of office to supersede the present Parole Board, its personnel to consist of five persons appointed by the Governor and selected for their particular fitness without reference to politics, religion, nationality, fraternal or other affiliations. Each member selected to be not less than thirty years of age, with the equivalent of a university education and preferably a member of one of the learned professions. No person to be selected who has held elective or appointive office within five years prior to such appointment. Any appointee of the Board to be disqualified for holding an elective or appointive office for a period of at least three years after leaving the Board. The members of the first Board to be appointed for terms of three, six, nine, twelve and fifteen years respectively. Thereafter, one member to be appointed every third year for a period of fifteen years. The pay to be sufficient to attract competent persons. No member of the board to have other occupation, but to devote his entire time to the work. The idea here is to prevent a change in the personnel of the Board at the will of each incoming governor and to assure the services of men who are willing to make careers of this type of work. In other words, to provide for career men; men who will take pride in their work, who become trained for it and who possess the requisites for success for service to the commonwealth. Some provision should be made for retirement and pension and in the event of incompetency or corruption, action for impeachment and removal of any member should be provided, preferably by some original action in the Supreme Court of Illinois.

³ "Concerning Parole in Illinois," *The Journal of Criminal Law and Criminology*, 26, 1935, p. 515.

These are high standards, but none too high when measured against the magnitude and difficulty of the parole problem and the significance of the effective administration of parole for public protection.

6. The prediction of the probable success or failure of men when released on parole is a new instrument which if wisely and cautiously used will be of assistance in protecting the public against the habitual and professional criminal.

In Illinois especially during the past four years greater or less progress has been made in achieving all these six conditions to the effective operation of parole. No progress, so far as Cook County is concerned, has been made in the field of adult probation. Adult probation is now the weakest part of our machinery of criminal justice not only in Illinois but in many other states. The public will sooner or later realize that the denial of supervised probation to a youth who merits it is often the same as pushing him into a criminal career at public expense both in taxes and safety.

A classification plan has been introduced into Illinois with diagnostic depots at Joliet and Menard under the direction of the State Criminologist, Dr. Paul L. Schroeder. Each man upon being sentenced by a judge goes first of all to one of these diagnostic depots where he is examined by specialists. On the basis of a careful study of his physical condition, mentality, family and community background, work record, past criminal experience and probabilities of reformation he is assigned to one of the four state institutions with a recommendation for individual treatment.

Progress has been made, although more at some institutions than at others, in reducing the number of idle inmates. At present the best opportunities for industrial and general education are at Pontiac, the institution set aside for the first offender with good prospects for reformation.

Distinct advance has been made in the program of preparing men for parole. Pre-parole classes have been organized and an attractive manual of useful information for the paroled man has been prepared. At the present time a parole study is in progress under the general direction of George J. Scully, chief parole supervisor.

The present Board of Pardons and Paroles was carefully selected by Governor Horner and with less consideration for politics than in the past. This is evidenced by the fact that the chairman is a holdover from the previous administration and that another

member, a man who has devoted his life to the study of criminology, was appointed upon the endorsement of a non-political group of citizens.

In 1933 Illinois introduced prediction technique as an aid in parole work. In this new advance it has the distinction of being the leader as in several other noteworthy developments in the field of criminology as witness the first Juvenile Court, the first institute for the study of juvenile delinquents, the first state criminologist, the first Crime Commission.

What is parole prediction and in what ways may it be of use in protecting the public against crime and criminals?

Parole prediction may be defined as a method of determining what are the chances that a man will succeed or fail when released upon parole. In other words, it is a way of giving every man who is being considered for parole a risk rating, as a "No. 1 risk," a "No. 2 risk," a "No. 5 risk," and even as low as a "No. 18 risk."

There is, at present, a growing body of literature upon different methods of parole prediction. Notable contributions to the theory and practice of parole prediction have been made by many research workers including Hornell Hart, S. B. Warner, Sheldon and Eleanor Glueck, Clark Tibbitts, John Landesco, George B. Vold, S. A. Stouffer, Jerome Davis, Ferris F. Laune and his office, C. C. Van Vechten and Sam Daykin. Now under way is a nationwide study of parole prediction included in the Attorney General's Survey of Release Procedures and directed by Barkev S. Sanders.

This is not the time or place to weary you with the technical details of these studies. In spite of their many differences they are all based upon the following simple principles:

1. Certain factors are selected like previous criminal record, previous work record, whether married or single, conduct in the institution and so forth.

2. A large number of cases are studied to find out if these factors are or are not related to violation of parole. For example, it has been found as might be expected that men with previous criminal records are poor risks on parole, while men with no previous criminal records are good risks; men with regular work record before arrest are good risks; those with irregular work record, poor risks; married men are good risks; single men, poor risks; those who observe prison regulations are good risks and those that violate them, poor risks. In almost every case statistics justify common sense observations.

3. The next step is to get a sum total of the probabilities of success or failure in each case studied. For an example it is now evident that a man who has no previous criminal record, who worked regularly in the past, who was married and who observes prison regulations is, or should be, a much better risk on parole than a man with a previous criminal record, who has only worked irregularly at casual labor, who is single, and who has been a persistent violator of prison rules.

4. The final step is the construction of what is called an experience table which shows actually what was the violation rate for each group ranging from the group with the lowest expectancy of parole violation to the group with the highest expectancy of violation.

Three expectancy tables are now in use in Illinois institutions. The one at Joliet, based on 1000 cases, consists of nine groups with the proportion violating parole ranging from 1½ per cent to 76 per cent. The one at Pontiac, based on 3000 cases, of twelve groups with the proportion violating parole ranging from 1 per cent to 99 per cent. The table in use at Menard, based on 2772 cases, consists of 18 groups with violation rates ranging from 1 to 99 per cent.

Whenever a case is considered for parole by the Parole Board a statement is furnished by the sociologist and actuary of the statistical probability of violation of parole. The final summary of the report might be for example that inmate A is classified in the group where only 1½ per cent are likely to violate parole, B in the group with a violation rate of 30%, and C in the group with a violation rate of 85%.

The question is, of course, still open whether or not inmate A, appearing before the Board, will fall in the 1½ per cent who violate or the 98½% who will observe parole, whether inmate B is likely to be one of the 30% who violate or of the 70% who observe parole, and whether inmate C is likely to be one of the 85% who fail or the 15% who make good on parole.

In all these cases the members of the Parole Board must use their own best judgment because the statement of parole expectancy does not serve its purpose if it is used too mechanically. In Illinois the members of the Parole Board have other data which they take into account, the report of the psychiatrist, the detailed report upon past criminal history of Chicago cases by the Chicago Crime Committee, the report by the parole officer about arrangements for a job and about adjustment to home and neighborhood situations,

and last but by no means least a hearing of the prisoner himself. Then above and beyond these data the Parole Board must always, in granting parole, give attention to the public, especially in paroling those individuals where community feeling runs high against them.

Prediction tables are useful, not only to the Parole Board, but for parole supervision. In Illinois copies of the probabilities of parole violation are supplied to the Division of Parole Supervision. In this way, the parole officer knows in advance what are the probabilities of parole violation in each case. His job then becomes that of preventing the prediction of failure from becoming an actuality.

Illinois has now had three years of experience with parole prediction in actual use. What have been the results? Do prediction tables actually work out in practice? Does parole prediction provide added protection to the public?

First of all, expectancy tables have worked out in practice. A careful and detailed statistical study shortly to be published by Mr. Sam Daykin, assistant sociologist and actuary of the Illinois State Penitentiary shows how closely for 18 different groups the actual outcome in experience is to the statistical expectancy.

In the second place, this study and the data from the other two institutions show that since the introduction of parole prediction methods three years ago there has been a marked decline in parole violation.

The figures are interesting. One institution shows a violation rate in over 1,000 cases paroled under the present Parole Board that is 24.4 per cent less than expectation. This result is probably due in part to the care of the Parole Board in selecting good risks. It is also partly the result, in all probability, of the more effective work of parole supervision during this period.

Figures from another institution made possible an even more detailed analysis. The expectancy table called for a certain violation rate; the actual number of failures upon parole was 40 per cent less than expected. A careful study of the distribution of cases by different risks, however, showed that this result had been achieved, in part, by a selection of cases from the groups with low violation rates. When the expectancy table was corrected for this factor, the actual violation rates, even then, was 18.8 per cent less than expected. In the case of poor and bad risks the decline in violation rates was even greater, or 34.2 per cent.

These findings re-emphasize the value of parole prediction of the practice of the Parole Board in selecting good risks and of more effective parole supervision. These figures probably also reflect the effect upon crime reduction, including parole violation, of the greater efficiency of our whole system of criminal justice.

What then are we to conclude in regard to the relation of parole and of parole prediction to the protection of the public?

The available statistics seem to indicate that people of Illinois, as measured by the decrease in violations, have had better protection from its parole system in the last three years than at any time during the past twelve years.

But this is contrary to what the public has been led to believe. The explanation for this is not difficult. The publication of a few cases of parole failures, particularly if they have dramatic or sensational features, will be sufficient to arouse public apprehension that all is not well with parole.

The only way I know to meet this natural public reaction to the dramatic case is by the appeal to statistics.

Seven years ago a committee composed of the late Judge Bruce of Northwestern University, Dean A. J. Harno of the University of Illinois, John Landesco, now a member of the Illinois Board of Pardons and Paroles, and myself recommended to the Parole Board not only the adoption of parole prediction but also the annual publication of statistics upon the workings of parole, statistics which had been analyzed and audited by a statistical expert or competent committee.

Only by some such means will even effective parole work gain and keep the confidence of the public.

The newspapers can, and I believe they will, be of increasing service in our common objective of protecting the public by all the instrumentalities of criminal justice including parole. They will, of course, continue to publish cases where paroled men commit crimes because that is news, but they will also print parole statistics because they also are news.

Before concluding this paper I would like to offer a suggestion for the purpose of securing your reaction. For some time I have been intrigued with the idea that one of our great daily newspapers might make an outstanding contribution to the solution of the problems of crime and criminal justice by introducing a weekly or perhaps even a daily column on "Crime and Its Treatment."

This column should, I think, be patterned somewhat upon the

"Health Columns" which have been so successful in advancing the cause of public health. It should present its material in interesting and non-technical language, avoiding cant, sentimentality and propaganda for any "ism." In other words the column would aim to give the public factual, significant and authentic information upon crime and its causes, the workings of the machinery of criminal justice and the new and promising developments in the study, the prevention and the treatment of the criminal. The public, because of its growing concern and interest in the crime problem, would welcome such a column.

In conclusion, there can be no doubt of the rising tide of demand by the press and by citizens that parole be administered for the best possible protection of the public. The public will demand in parole, as in all aspects of criminal justice and crime prevention the utilization of every resource of science and of technical skill. More and more the public will ask that the results of parole be subjected to accurate measurement. For these reasons, the experience of Illinois in the field of parole prediction may have a nationwide significance.