

1941

Current Notes

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CURRENT NOTES

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Probation Standards—The Judicial Conference of Senior Circuit Judges meeting in Washington in May, 1941, reported the following strong position:

"It was declared to be the sense of the conference that, in view of the responsibility and volume of their work, probation officers should be appointed solely on the basis of merit without regard to political considerations; and that training, experience and traits of character appropriate to the specialized work of a probation officer should in every instance be deemed essential qualifications."

This was followed by two notable comments. One of these was issued by the Chief Justice of the Supreme Court, Charles E. Hughes, on May 26, 1941. He wrote to Timothy N. Pfeiffer, President of the National Probation Association as follows:

"If conduct is three-fourths of life, administration is at least three-fourths of law, and administration is about all there is to probation. In this distinctive field the necessity for a well devised routine is obvious, but the success of that procedure rests upon the special aptitude of the probation officer. It is gratifying to observe that judges who have the duty of selecting probation officers are more and more alive to their responsibility for the efficiency of the system. There is no room here for mere place-hunters or political derelicts. This matter received particular emphasis at the recent meeting of the Judicial Conference of the Senior Judges of the United States Circuit Courts of Appeals. It was declared to be the sense of the Conference that in view of the responsibility and volume of their work probation officers should be appointed solely on the basis of merit without regard to political associations; and that training, experience and traits of character appropriate to the specialized

work of a probation officer should in every instance be deemed essential qualifications. That Conference also took note of the fact that in the federal system the average case load was far too high and that the burden should be relieved as soon as possible by provision for additional officers."

"Another admirable feature of today's efforts is the increased opportunity that is being afforded for in-service training courses for probation officers. Good intentions and humanitarian impulses are not enough. There must be the special skill which comes from training, and courses to that end are being provided. The related problems of the indeterminate sentence and parole, of disparities in sentences for similar offenses committed under like circumstances, and of adequate provision to meet the interests of society in the treatment of juvenile offenders are more than ever the subject of careful study which will undoubtedly lead to needed improvements."

Another comment came from Henry P. Chandler, Director of the Administrative Office, United States Courts, under whom the Federal Probation System operates. He said:

"I am sure that this sentiment of the senior circuit judges and of the Chief Justice, disseminated as it has been among the district courts, cannot fail to make for due consideration of fitness in the appointment of probation officers by the judges."

"If you ask whether there is as yet any more definite statement of standards by the Administrative Office than is contained in the declaration quoted, I answer at this time in the negative. I know that there have been various formulations of standards and possibly they are helpful. At subsequent meetings of the Judicial Conference I may make recommendations in that direction. I am inclined to think

that there are elements in fitness for probation work which elude definition. I think that the statement adopted by the Judicial Conference is clear enough to anyone who will heed. I prefer to stand on that rather than to attempt to specify further until I see more reason for doing so than I do now."

"Undoubtedly the selection of the right persons plays the principal part in building a good probation staff. Probation officers need, however, to learn by doing as well as to start with proper qualifications. Recently a number of regional conferences have been held in which the federal officers with the state and local probation officers have had an opportunity to consider the common problems of probation. Also the federal officers have had meetings by themselves for discussion of specific federal policies."

"Of one thing I am sure—that the conduct of probation in order to be vital and effective must be a continuing study on the part of those who engage in it; that the door to learning is never closed, and that along with the day to day performance of duties must go unceasing thought on the possibilities of improved methods, of better understanding of the mysterious motives and factors that influence the conduct of human beings, and consequently of more effective help to probationers and parolees in adjusting themselves suitably to society."

Searching for Police Chiefs—It is not uncommon to see advertisements in English police magazines stating that the office of chief constable is open in a certain locality and will be filled by competitive examination. Seldom do we find them in the United States. Recently "Public Management," the monthly publication of the International City Managers' Association, carried the following: "FLINT MICHIGAN, *Police Chief*. An open competitive nationwide examination for the position of police chief will be held in the court house at Flint on July 29, to fill the vacancy created by the resignation of Neal F. Anderson, who has become police chief at Pasadena, California. Qualifications include at least nine years' experience in a governmental police department, five years of

which must have been in a supervisory capacity. The present salary range is \$3,600 to \$4,320, but a new compensation plan which will be adopted in August will probably provide a materially higher range. Further details, together with an application form, may be secured from the civil service commission, city hall, Flint, Michigan."

This is an encouraging sign. The chief obstacle to the establishment of police schools has been the fact that residence and civil service requirements are such that there is little to offer a person who desires to qualify as a police administrator. An engineer can go anywhere in search of jobs—the policeman cannot. The only road to advancement is the slow one of rising step by step in the home department. The outstanding exceptions are the men of Berkeley, California, and Wichita, Kansas. Several of them have gone abroad and have entered new departments, achieving rapid promotion. The Flint advertisement, following the recent experiences of two other cities, Pasadena, California, and Two Rivers, Wisconsin, caused the editor of "Public Management" to comment as follows:

"Pasadena, California, and Two Rivers, Wisconsin, have recently appointed new chiefs of police following an open nationwide competition to secure the best men possible for the positions, and a third—Flint, Michigan—is following the same procedure in seeking a new chief. The reasons for waiving local residence and the methods used in locating and examining qualified applicants are reviewed here:

PASADENA, CALIFORNIA (81,864).—Because of the retirement of the chief of police of the city of Pasadena after 20 years service, City Manager C. W. Koerner decided to seek as a successor the best chief of police that could be secured. Accordingly, it was announced that applications would be received from qualified applicants throughout the country including men in the Pasadena police department. A statement of qualifications and a printed application form was prepared. Of the 67 persons making application, 19 were found qualified to take the examination.

The city manager, accompanied by Theodore L. Sharp, chief examiner in charge of civil service at Glendale, proceeded to examine those qualified and at the same time check the character of work being done by the applicants and obtain first-hand information by oral interview and references.

The questions for the written examination were prepared by a disinterested competent authority on police administration. The written examinations were graded by August Vollmer, of Berkeley, California, who is also an outstanding police authority. As a result, the city manager recently appointed Neil F. Anderson, who had been chief at Flint, Michigan, since 1938. Mr. Anderson, 33 years old, had attended the University of Wichita, and prior to his appointment at Flint was assistant chief and director of personnel in the police department at Wichita, Kansas.

TWO RIVERS, WISCONSIN (10,302).—After the desirability of appointing a new chief became evident, the board of police and fire commissioners, who are authorized by statute to make the appointment, decided to get the best man possible at the salary offered. While a local resident would have been preferred, other things being equal, no members of the local force were found upon investigation to have the training in modern police methods or experience in police work deemed necessary. Accordingly, recruitment outside the city was decided upon, the public readily accepting this decision in view of the importance of the Two Rivers area to the national defense program. The personal relationships in the department were such that the incumbent chief was willing to step down.

The board requested the assistance of City Manager Harry W. Knight in the selection process. Through correspondence with cities known to have well-trained chiefs and as a result of a conference in Chicago with several experts in the police, personnel, and public administration fields, the board decided to make an active search for qualified candidates. An announcement of the vacancy was prepared and distributed to a number of cities and to several national organizations. As a result, 18 requests for applications were received,

and the standard form issued by the International Association of Chiefs of Police was sent out; but only ten were returned. The board eliminated those who, on the face of their applications, had no chance of appointment, leaving four men who were admitted to the physical, oral, and written examinations. These men—two from Wisconsin cities, one from Minneapolis, and one from Berkeley—came to Two Rivers at their own expense. The written exam, based on test materials from other cities loaned by the Civil Service Assembly, consisted of five sections: knowledge of police science and practice, and general administration; identification and investigation; specialized police fields; traffic safety and control; and correspondence and preparation of reports.

The appointment went to the candidate with the best grade on the written examination—Theodore Hall, director of investigation, California State Parole Office, previously a sergeant on the Wichita, Kansas, police force, and more recently a staff member of Public Administration Service for several police surveys.

FLINT, MICHIGAN (151,543).—This vacancy was created, of course, by the appointment of Chief Anderson as police chief in Pasadena. Chief Anderson had received his appointment in Flint following a nation-wide competitive examination, and the civil service commission decided to fill the vacancy by the same method. An effort is being made to attract the attention of qualified men through notices in various journals and news letters."

Lawyers and Crime Prevention—We have had occasion to refer to the crime prevention work of the California Bar Association in a previous issue (41 J. Crim. L. 470, Nov.-Dec., 1940). This interesting development was further described in a recent address by Harold H. Krowech, Chairman of the Juvenile Crime Prevention Committee, to the District Attorneys Association of the State of California. He said: "Thirty-seven bar associations throughout the state have, for the past several years, been offering free public speaker service to the schools. A speakers list and the subjects that they are prepared to talk on are

made available to all principals of our public school system. Talks are given by attorneys before large student assemblies, and also before smaller groups in open forum fashion. Children are encouraged to ask questions, and their responses indicate that they want concrete information about specific cases and not legal abstractions far above their reach. The Bar has sought to caution the young—to put them on guard, not merely to deter crime by bringing home to youth the penalties and consequences for violations of the law, but to assert the fundamental basis upon which the life of the law-abiding person is predicated.

Lawyers have taken the attitude that just as doctors and dentists have been spreading information throughout the schools of the nation in the sphere of preventive medicine fortifying youth against disease, so it is the lawyers' objective and as his particular contribution to society and to the community in which he lives to prevent crime, a social disease, by means of spreading the information of the processes and meaning of the law, all directed at fortifying youth against crime.

Why has the lawyer undertaken this responsibility to the parents and children of our state? Because in the province of educating the juvenile mind in the knowledge of the law, he is well qualified by training and experience to give the young a practical and realistic appreciation of our laws and institutions in the field of preventing crime. He knows the dangers of the life of crime—the anxiety of the accused, the hopelessness of the guilty. His words carry a telling effect on many young audiences. The reason is clear—the presence of the lawyer before the children represents an experience in and of itself. He is an officer of the court armed with first-hand knowledge of the facts. Young people know and realize that if trouble comes, their parents will seek a lawyer for consultation and advice in much the same manner in which they will seek a doctor in the event of illness. . . .

Primarily our objectives are to develop respect for law; to give a child a better understanding of the mechanics involved in the administration of justice to familiarize the child with the duties and problems

of law enforcement officers; to explain modern day specialization in apprehension technique employed by law enforcement agencies; to explain and caution youth with respect to criminal involvements; to give youth guides and rules to measure and judge the conduct of those persons seeking to involve them in criminal activities; to demonstrate by the use of actual court cases, the exorbitant price paid for the commission of a crime; to bring the law to the child instead of bringing the child to the law; to dispel the idea that a crime can be committed without "getting caught"; to reconcile imaginative ideas of youth respecting the law in accord with fact; to give youth an appreciation of the duties confronting the Judge, District Attorney, Probation Officer, Policeman, etc.; to explain the public policy underlying the law; to develop a concept that violation of law is tantamount to lack of loyalty to our government; to single out those areas in which crimes occur most frequently; to do away with the popular conception that intoxication is considered in mitigation of a public offense; to demonstrate to youth that expediency is not a justification for the commission of a crime; to acquaint youth with the pertinent provisions of the California Penal Code regulating their conduct; to encourage a spirit of cooperation on the part of children in law observance; to explain the mysteries of legal terminology; to point out the "danger signals" of the precipitating causes of crime; to explain the meaning of circumstantial evidence; to interpret human behavior in terms of legal consequences; to give youth an opportunity to "ask the lawyer" the question troubling him so that he cannot claim "ignorance of the law as an excuse"; to demonstrate the idiocy of criminal acts.

We have found by experience that the most effective manner of getting over our legal guidance objectives to the young is to clothe the rule and the objective in the heart of a case history involving some boy or girl. The question of gaining the attention of a young audience is of great importance if the talk is to gain its desired result. Numerous speeches given by attorneys throughout the state indicate that a child audience may be captured by the

detailed facts of a particular case. We have adopted the case system in our program. We are using actual case histories, deleting the names of the persons involved. Our analysis of each case takes somewhat this particular form: first, a statement of the offense; secondly, the facts of the case built around the offender and emphasizing the highlights of the case. This may demonstrate that any of the following are to be emphasized: the precipitating cause of the offense; the setting of the crime; the parties involved; the manner of detection and apprehension; the unforeseeable circumstances developing in the commission of the offense; the modus operandi used; the family involvement, if any; the consequences of the unlawful act. Lastly, the legal deductions of crime preventive value are pointed out with the enfoldment of the history.

It is to be noted that by the use of this method the child never receives the impression that he is being preached or lectured to, but, on the contrary, is being given the benefit of getting the 'inside information' in the particular case. A child is allowed to draw his own deductions, seeing for himself the idiocy of the criminal activity discussed."

Prison Directory—In July, 1941, the American Prison Association issued its "State and National Correctional Institutions," a directory which includes the institutions of this Country and Canada. The form of presentation of the 1941 Directory information has been changed from that used in recent years. This has been done with the thought that the change makes for greater ease of reference through the inclusion of institutional data in one paragraphical statement.

The Directory includes all correctional and penal institutions operated by the forty-eight states; the District of Columbia; the Federal Government through the United States Bureau of Prisons, the War and Navy Departments and the United States Public Health Service; the Federal prisons of Canada, and local and provincial institutions in the Dominion.

The data collected by the Association may be illustrated by the following item, covering one institution; it is typical.

"Illinois State Penitentiary, Joliet
James J. Doody, Acting Warden
Old prison (Joliet) opened 1859—
New prison (Stateville) opened
1926
Normal capacity 5,700 (total) males
Population 1940: 5940. Age limits:
None
Population: Felons
Operating budget: \$1,538,750. Per
capita maintenance: \$266.75
158 inmates employed on farm are
housed in dormitories outside of
institution. "Outside details" em-
ploy 175 to 200 inmates who are
returned to institution nightly."

The compiler states:

"Every effort has been made to assure accuracy but the Association cannot assume responsibility for conflicting data as it may have been reported by institutional officials. The Directory is merely presented for the information and guidance of public and officials alike and no attempt has been made to analyze, or evaluate, the information given. To do this would require personal investigation which is not feasible within the necessary limitations of our efforts."

Copies may be obtained from the office of the General Secretary, E. R. Cass, 135 E. 15th Street, New York.

New Illinois Department—An interesting development in state government was the creation by Illinois of a new department to include all services in the field of public safety. Many of the divisions of the new department were taken from the too-large Department of Public Welfare. Commenting upon this fact, the Director of the Department of Public Welfare recently stated (Welfare Bulletin, April-May, 1941):

"The law creating the Department of Public Safety places in the new Department the State correctional institutions for adult offenders, the Divisions of Prisons, Pardons and Paroles, Supervision of Parolees, Criminologist, Crime Prevention, Criminal Identification, Highway Police and Fire Marshal.

The Department is authorized to exercise all the duties formerly vested in the Department of Public Welfare in relation

to institutions and agencies formerly under that jurisdiction and placed in the new Department and of those duties formerly vested in the Department of Insurance in relation to the State Fire Marshal's Division, and of those formerly in the Department of Public Works and Buildings in relation to the Highway Police.

The creation of the new Department of Public Safety is in harmony with modern trends as shown in various states of the Union. The principle of a uniform State Police connected with the Departments which control the correctional elements in the State Service is generally recognized as good practice.

The inclusion of the State Fire Marshal's office appears to be logical in that the new Department would have features along the lines of not only crime prevention but accident prevention. Of course fire prevention is closely allied to both, and the facilities of the State Police system in collaborating with the State Fire Marshal's office in the detection of organized arson should be clear to any one.

There is a growing belief that due to the inclusion of the automobile in modern society the whole conception of police-manship must be broadened to be based upon a wider unit than that of the City or even the County. Crime may be committed today at ten o'clock and two hours later the perpetrator is in a jurisdiction far removed.

The building of a new Department to include the prisons, paroles, State Police and the various crime and accident prevention agencies is calculated to make possible a closer study of these problems and better administration generally.

There is also, of course, the fact that the Department of Public Welfare has been so much larger than any other code department that little justification can be found for its further enlargement. There are those who contend that a Division of Public Assistance in the Department of Public Welfare to coordinate Relief administration with Old Age Assistance administration is advisable.

The separation of the prison and parole systems and the Division of Criminal Identification and Investigation from the Department makes possible a considera-

tion of the advisability of a Division of Public Assistance without encountering to such a degree the argument that there is no place in the Welfare Department for it."

Who Is a Sex Offender?—In an attempt to collect information regarding sex criminals, and to find out if sex criminals made good parole risks, Frederick A. Moran, a member of the Board of Parole of New York State, has compiled the results of a study made of all individuals originally sentenced for sex crimes, who had been paroled from the State Prisons and the Elmira Reformatory, during a seven year period from July 1, 1930, when the present Division of Parole in the Executive Department was established, until June 30, 1937.

The fact that less than three per cent of the group studied, which numbered 925 sex criminals, were again arrested for sex felonies, Mr. Moran concludes, may indicate that parole as a method of social control, has protected both the community and the individual whom it has assisted in his adjustment to community life.

"Legally, anyone who is convicted of a crime involving sex misconduct is a sex criminal," says Mr. Moran in a report on "The Sex Criminal on Parole," which has been published by the Division of Parole. "Just as the makeup of two criminals convicted of robbery is not alike, no two sex offenders come from the same mold. . . . The existing legal definitions of sex crime may or may not be satisfactory, but from a social point of view, if the community is to be protected and the caught sex offender is to receive effective treatment, serious consideration should be given to carefully defining what is meant by a sex criminal. Before any plans are formulated for custodial care for sex criminals, and before any specialized institutions to care for sex criminals are established, the types of individuals who should be confined in these institutions should be carefully studied and standards of selection formulated.

"The menace of the abnormal sex offender to the residents of a community naturally should not be minimized, but society needs to know a great deal more than it does at

the present time regarding the sex offender. This knowledge can only be made available after careful research. Before any dictum is enunciated regarding an effective treatment program for the care of caught and convicted sex criminals, careful study and analysis will have to be made of the problem of the sex offender."

According to Mr. Moran, there is "scant information available regarding the general problem of sex misconduct, and there are no reliable or accurate statistics compiled regarding the number of individuals whose overt sex conduct has resulted in arrest, discharge or conviction." (From April, 1941, "Correction," p. 1.)

Homosexual Delinquent—Three years ago the Committee for the Study of Sex Variants published a study of the social factors in the case histories of one hundred underprivileged homosexuals. (See 22 *Mental Hygiene* 591.) This study brought to light the fact that many of the men studied had had prison experiences. For that reason the committee later undertook a study within the prison itself of the social factors in the case histories of one hundred homosexual delinquents. The place chosen was the Penitentiary of the City of New York on Riker's Island. The report was prepared by Dr. George W. Henry, Consulting Psychiatrist of the Department of Correction, City of New York, and Alfred A. Gross, Research Assistant, Committee for the Study of Sex Variants. The Report was published in "*Mental Hygiene* (XXV: 420, July, 1941). The Summary of findings was:

1. The homosexual group confined in the segregated division of a penitentiary has its origin in social and economic insecurity. It is a delinquent group, and its composition differs little, if at all, from the social composition of the general prison population.

2. Insecurity appears to be greater in the delinquent homosexual than in the

more economically secure homosexual. The latter, however, may live in fear of blackmail. The delinquent homosexual usually has nothing to lose and therefore does not fear exposure.

3. The present study confirms the observation made in 1938 that this group is handicapped by a 'poor biological start, inferior housing, limited education. Its vocational training is of the scantiest. Its members usually have difficulty in finding and keeping work.'

4. The delinquent group, even more than the nondelinquent, is forced into a world of its own, with its own folkways and a special language. This world offers little security, and the result for those who linger in it is almost inevitably tragedy. Members of this delinquent group are social liabilities. Very few of them make the literary, artistic, and other aesthetic contributions that homosexuals frequently claim are their special gifts to the world.

5. Recidivism is observed in this group with sufficient frequency to make the outlook for these men discouraging.

6. The drug-addict homosexual is present in this group in sufficient numbers to warrant a special study.

7. The number of recidivists present in the group leaves imprisonment as a means of dealing with homosexuality open to serious question. The most that can be expected of imprisonment is to make the offender more cautious. A more realistic method of treatment would involve the establishment of a penal hospital in which the emphasis would be on treatment rather than on a fixed period of custody, and wherein the offender could be retained until such time as parole, under psychiatric supervision, might seem advisable.

8. Psychiatric study of the offenders should begin in the institution itself; and a parole plan should include a psychiatric follow-up service.