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PRE-SENTENCE EXAMINATION OF OFFENDERS TO AID
IN CHOOSING A METHOD OF TREATMENT

Sheldon Glueck

The following report was made before the recent Congress of the International Penal and Penitentiary Commission in Brussels. The author has been Professor of Criminal Law and Criminology in the Harvard Law School since 1931. Professor Glueck was recently appointed as the first incumbent of the Roscoe Pound Chair of Law in Harvard University. Several well known publications by Professor and Mrs. Glueck are listed in footnote 5 to the present article.

The report published here was prepared by the author on the basis of individual reports by representatives of various nations indicated below:

Belgium: Mr. Jean Constant, Solicitor-General of the Court of Appeals of Liege, Professor at the University of Liege; *France*: Mr. F. Gorphe, President of the Court of Appeals of Poitiers; Mr. Jean Pinatel, Inspector of Administrative Services, Ministry of the Interior, Paris; *Italy*: Mr. Pietro Nuvolone, Professor of Penal Law at the University of Pavia; *Luxemburg*: Mr. Leon Mischo, M.D., Chief Physician, Psychiatric Hospital, Ettelbruck, Luxemburg; *Netherlands*: Mr. M. P. Vrij, Counsellor at the Cour de Cassation of the Netherlands, Honorary Professor University of Groningen; *Sweden*: Mr. Sven Ersman, Deputy Judge, Secretary of the Penal Code Commission, Stockholm; *Switzerland*: Mr. Francois Clerc, Professor of Penal Law at the University of Neuchâtel; *United Kingdom*: Sir Leo Page, J. P., Faringdon, Berkshire, England; *United States*: Mr. Ralph Brancale, M.D., Director New Jersey State Diagnostic Center, Menlo Park, New Jersey; Mr. Charles L. Chute, Vice-President National Probation and Parole Association, New York; Mr. Paul A. Schroeder, M.D., Psychiatrist, Atlanta Georgia.—EDITOR.

Under the rules of the Congress, a general rapporteur must improve on the miracle wrought in one of Pharaoh's famous dreams, so brilliantly interpreted by Joseph several hundred years before Freud. You will recall that the seven lean cattle swallowed the seven fat kine, yet the former miraculously remained lean. Your general rapporteur has had to swallow twelve fat reports and emerge with only a lean one of his own. If, therefore, some of the learned authors of the preparatory papers should feel that he has not sufficiently presented their views, let them think of the biblical precedent and forgive him for not being able, in the waking state, to reverse the laws of nature—a miracle so readily wrought in the dream-state.

I.

The first question posed to Section I of the Congress was: *Is a pre-sentence examination of the offender advisable, so as to assist the judge in choosing the method of treatment appropriate to the needs of the individual offender?*

As might be expected in the middle of the twentieth century, there is

unanimity among the contributors in answering our basic question in the affirmative. As several reports point out, a presentence investigation is helpful even if one clings to the conviction that the chief aim of the criminal law is painful punishment with a view to general and specific deterrence; all the more necessary it is if one believes its main objective to be the reform and rehabilitation of the offender. As Dr. Mischo puts it, while society has the right to suppress the liberty of those who disturb public security, it also has a correlative duty to provide for their rehabilitation, an obligation entailing employment of the pre-sentence examination, including its psychiatric aspects. Not only is the pre-sentence report valuable as a basis for sentence and treatment in the individual case, but, as we are reminded by Dr. Brancale, the accumulation and study of many pre-sentence reports can lead to a realistic, rather than a merely theoretical, re-examination of the entire philosophy of punishment. Special insight regarding the relationship of the pre-sentence investigation to theories of punishment is also contributed by Sir Leo Page.

Despite this basic agreement, there are certain subjects more or less related to our question on which differences of opinion have emerged:

(a) Not all the rapporteurs expressed views as to the *class of case* in which a pre-sentence report should be required. Chief Justice Gorphe's and Professor Nuvolone's scholarly reports remind us of the distinction between political and "natural" crimes, and would limit the pre-sentence examination and report to the traditional offenses against the person or property; others speak of providing such services only in the more "serious" cases or felonies. Thus Mr. Chute points out that in the United States pre-sentence investigations by probation officers are increasingly being made mandatory in all "serious" or felony cases. Justice Gorphe points to the need of a psychiatric examination in "moral" offenses even when the offender gives no outward signs of psychopathology.

Ideally, if one accepts the reform or "cure" and rehabilitation of the offender as the chief aim of modern criminal justice, then a pre-sentence report ought to be furnished in the vast majority of cases except perhaps purely political offenses. But the problems of cost, undue delay in the proceedings, limited authority of the courts in the sentencing process, and variations in facilities for treatment dictate modifications of policy in different countries. I shall therefore address myself to the principle, rather than the extent, of the pre-sentence report.

(b) There is divergence also on the question of the stage in the pro-

ceedings at which the investigative process ought to begin. Justice Gorphe and Professors Nuvolone and Vrij, especially, point to the advantages in unity and economy to be derived from making the investigation serve the purposes not only of the sentence and treatment but (prior to conviction) of the preparation of the case for trial (*l'instruction*) and the trial itself. Since, however, the majority of the contributors interpret the term, "pre-sentence investigation," to deal with the information needed by the court in imposing sentence after conviction, I have omitted discussion of the role of investigations made by the police, *juge d'instruction* and prosecutor in preparation of the case for trial. This limitation also avoids confusion between differing Anglo-American¹ and Continental constitutional provisions, systems of criminal procedure and administrative practices.

Despite these concessions to the need of avoidance of debate on details and on basic differences in law, there remains the unanimity in affirmation of the principle involved in our question.

II.

WHAT SHOULD BE THE SCOPE AND CONTENT OF THE INVESTIGATION?

(a) Theoretically, this ought to depend on whether the report is to be used solely for the rough original classification involved in the sentencing process or also as a detailed plan of peno-correctional treatment thereafter. Professor Clerc, following specific provisions of the Swiss Penal Code, would limit the pre-sentence examination to instances in which it is necessary as an aid to the judge in selecting from different types of sanctions (curative, educative, or simply repressive), omitting it—at the pre-sentence stage—when its purpose is to aid the penal administration in individualizing treatment within an institution. Justice Gorphe and Professor Nuvolone wisely remind us that the value of a pre-sentence report depends upon a pre-established reform in peno-correctional practices: if there should be individualization of sentence there should, correlatively, be individualization of treatment.

The solution of such a question is thus tied up with local administrative practices and facilities for the examination and treatment of offenders. Since these vary, it is difficult to give any universal answer: local preferences can prevail as to this detail, without impairing the general principle of the desirability of a thorough pre-sentence investigation and

1. Such as "the privilege against self-incrimination," the "presumption of innocence," the requirement that the prosecutor prove the state's case "beyond a reasonable doubt," the Anglo-American "exclusionary" rules of evidence, especially the barring of reference, at the trial, to prior crimes of the accused, etc.

report. Duplication of investigations by court, prison and parole authorities is wasteful and ought to be avoided; and elaborate examinations are largely wasted effort without facilities for improved treatment of the offender. It may be concluded, then, that if local facilities permit of a thoroughgoing study of the offender during an adequate period of remand after conviction and before sentence, an investigation and report which will serve the dual purpose of sentence and treatment is desirable. This is the case, for example, in New Jersey, where, as Dr. Brancale reports, an excellent Diagnostic Center has been established at Menlo Park under the leadership of Mr. Sanford Bates, President of the International Penal and Penitentiary Commission. It should be emphasized that accumulation of instructive pre-sentence reports might well have the incidental but valuable effect of educating legislators, judges, correctional administrators and the public and thus bringing about improvements in correctional practices.

(b) As to the specific subject-matter of the pre-sentence investigation, a number of reports make very valuable suggestions. Attention is directed particularly to those of Dr. Brancale, M. Constant, Judge Ersman, Chief Justice Gorphe, Professor Nuvolone, M. Pinatel, Dr. Schroeder and Professor Vrij. It would require too much space to go into detail; but virtually all the rapporteurs recognize the importance of passing beyond the mere circumstances of the crime to make an intensive investigation of the personality of the offender as well as of his socio-cultural milieu. Dr. Brancale and Justice Gorphe stress the value of investigation into the sub-surface emotional conflicts of which the criminal act is often but a symptom or symbol. The contributors, generally, recognize the need of employing the resources of psychology, psychiatry, sociology and other disciplines relevant to the understanding and modification of human behavior tendencies.

(c) Limitations of space prevent analysis of another issue more or less related to our main question; namely, the extent to which the individualizing power should be entrusted to the judge or to the correctional officials. In a learned analysis of the issue, Judge Ersman reminds us of the advantage of leaving such authority largely in the court as a greater guaranty of protection of the individual's rights. As a special aspect of this problem, some criminologists have long asked whether the trial function should not be separated from the sentencing and treatment functions altogether, the traditional judge presiding at the determination of guilt or innocence but special judges or boards of experts being entrusted with the responsibility of dealing with the problems of selection of the

place, extent and nature of the peno-corrective treatment. Some of these matters were interestingly explored at the last Congress, at which much was said about the idea of the "physician-judge," who "having prescribed a certain treatment in his sentence, should carefully follow and check its effects, give detailed instructions for its application and, if necessary, alter the prescription in the light of the experience gained.² Justice Gorphe recommends that a special magistrate, trained in criminology, should have charge of the diagnostic center where the offender is to be examined, to collaborate with the anthropologist, psychiatrist and other specialists; he should be responsible for integrating the various aspects of the investigation, and for supervising the execution of the sentence. A few American states (California, Massachusetts, Minnesota, Texas, Wisconsin) have recently established "Youth Correction Authority" systems under which offenders beyond juvenile court age are committed by the courts to a board of experts for diagnosis, classification and treatment, if not placed on probation in the community.³

Since this whole complex problem of the division of authority between the judiciary and other branches of the services dealing with crime has been previously discussed, and since a pre-sentence examination should be of value to judges and correctional administrators even under the traditional system prevailing in most countries, we may lay this issue aside.

III.

From the foregoing analysis it would appear that some of the sub-questions more or less implicated in our major question are capable of reasonable accommodation. However, taking for granted the indispensability of a scientific pre-sentence investigation, other sub-questions arise to plague us. These are more profound than the fundamental question itself. In the traditional administration of criminal justice the task of the judge, so far as the imposition of sentence is concerned, is, on the surface, not very complex. The number of punitive and corrective bottles of medicine provided by society is small. Where the code's provisions approach the ideas of the Classical School they tend to be fixed, leaving little or no discretion to the judge. Where they are more advanced, the amount and kind of discretion the judge is permitted to exercise differ

2. *Proceedings of the XIth International Penal and Penitentiary Congress*, held in Berlin, August, 1935, p. 41.

3. See Desmond, T. C., *Youth Correction Authority Plan*, in *ENCYCLOPEDIA OF CRIMINOLOGY*, p. 522, and "The Correction of Youthful Offenders," in *Law and Contemporary Problems*, Vol. IX (1942). For the recently enacted Federal statute, see Public Law No. 865, 81st Cong., 2d Sess., Chap. 1115 (Sept. 30, 1950). Compare GLUECK, S., *Principles of a Rational Penal Code*, HARV. L. REV 41 (1928) pp. 453, 475; in which the "disposition tribunal" idea is discussed in the light of Professor Enrico Ferri's Italian Penal Code.

with the extent to which the code provides for "indeterminate" sentences and a rich variety of punitive, corrective, educational, medical and "security" measures. It is here that the difficult art of "individualization" comes into play; and this raises our first sub-question.

(a) Exactly how are "the needs of the individual offender," so confidently referred to in Question I, to be determined? What, in other words, is really meant by "individualization"? This fundamental question has been all too lightly treated in the literature, in statutes and in penologic congresses. It has just been assumed that, given an investigation report on the particular offender before him for sentence, the judge will, by his learning and experience, or by some sort of super-magic, be able to decide the exact penal or correctional measure suited to the case and the length of time the offender needs to be subjected to such treatment in order to reform.

Now, obviously, to "individualize" the sentence in the case of any specific offender means, first, to differentiate him from other offenders in personality, character, socio-economic background, the motivations of his crime and his particular potentialities for reform or recidivism, and, secondly, to determine exactly which punitive, corrective and medical measures are most adapted to solve the individualized set of problems presented by that offender in such a way that he will no longer commit crimes.

When we pause to reflect on all this implies it becomes more and more evident that to speak about "individualization" is one thing and to be able to accomplish it is quite another. Professor Nuvolone advises that the expert making the examination of the accused should render a diagnosis of the personality of the delinquent and a prognosis with reference to the possibility of his amendment. Mr. Pinatel answers affirmatively his question, "Is it possible, in the present state of scientific methods, to diagnose, with a maximum of certainty, whether one is dealing with an individual to whom a penal measure or a measure of social defense should be applied?" Justice Gorphe, pointing to the fact that sometimes a very minor offense is premonitory of a serious criminal in the making, asks whether it would not be very useful to detect such a "self-announced" offender at the earliest stage, so that his potentially grave criminalism might be checked by appropriate measures of oversight or re-education. Dr. Brancale tells us that "the goal is that of finding the best way to help the young person become socialized by means other than punishment." But only Professor Vrij makes the confession that is good for the soul, when he exclaims: "What audacity is involved in

these three tasks: to interpret a life, explain an act, predict the slightest inclinations of a human mind."

It is high time that penologists faced the fact that the feasibility and the development of a reliable technique of individualization are crucial to the entire program of scientific administration of criminal justice. If, in fact individualization can *not* be accomplished as yet with reasonable accuracy, then regardless of the elaborate investigations and *dossiers* and case-histories, and despite the lofty aims of modern correctional philosophy, the system will not work.

So I shall devote the remainder of this report to an analysis of this crucial issue.

At the outset it must be said that it is a naive self-confidence that makes a judge, or criminologist, or psychiatrist, or probation officer assume that he can detect the minutest details of difference of personality, character, motivation, socio-economic background and other subtle factors and forces that distinguish one offender from another, and on top of that, determine the exact nature and amount of correctional-rehabilitative treatment suited to the individual case and to that case alone. Only God can do that! And since judges are not gods, we get the following practical results in the "individualization" of sentences:

A few years ago, an analysis was made of over 7,000 sentences imposed by six judges over a nine-year period in a county in New Jersey. Each of these judges dealt with such crimes as larceny, robbery, burglary, embezzlement, assault and battery, rape, etc. Since there was no special assignment of cases to any particular judge, each judge received cases in which, considering them as a whole, and over a long period of time, the felonies were committed under similar circumstances and the offenders, as groups, did not vary in general personal make-up and social background. Yet the study disclosed that while Judge A imposed sentences of imprisonment in 36 per cent of his cases and Judge B in 34 per cent of his, Judges C, D, E and F imposed such sentences in 53, 58, 45 and 50 per cent, respectively, of their cases. Thus a prisoner convicted of a serious crime had but three chances out of ten of going to prison under Judges A and B, and five out of ten if sentenced by Judges C, D, E or F. Allowing the defendant to remain free in the community on probation, instead of sending him to prison, ranged, among the various judges, from 20 to 32 per cent; suspension of sentence, from 16 to 34 per cent. It would be invidious to suggest that a like analysis of sentences in European courts might reveal similar marked

variations. However, other American studies have shown similar discrepancies in courts of different states.⁴

Now all these judges were engaged in "individualizing justice." In most cases they had had the benefit of pre-sentence investigation reports made by probation officers. Considering the many hundreds of cases sentenced by each judge over so long a period of time, much greater similarity should have emerged in types of sentence imposed. What, then, is the difficulty? There are several interrelated ones: In the first place, the personality and prejudices of the various judges influenced the sentence to some extent; secondly, the judges also varied considerably in their equipment and training for the sentencing job. There is not room to discuss these two important factors; I will confine myself to the fact that even where a judge did have the aid of a pre-sentence investigation, he had no instrument with which to determine specifically which of the numerous factors in the pre-sentence report on the case in question were most relevant to the issue of the offender's subsequent reform or recidivism.

Professor Vrij wisely reminds us that in addition to classifying under general norms, "it is necessary to divine the individual's way of life." Justice Gorphe has a similar idea in mind, which he illustrates by the psychologic "profile" or graph, drawn on a standardized form, whereby the individual's performance on a mental test can be compared with that of others. But the essence of the matter is that one cannot individualize without comparing the particular individual with many others. What he can do is, with the aid of a staff of social investigators, psychiatrists, and psychologists, to determine, first, in what respects the individual offender under consideration for sentence resembles or deviates from a composite picture of hundreds of other offenders who have come and gone before him; and secondly, what the results have been, in the past, of treating an offender of such-and-such characteristics by one type or another of existing peno-correctional devices. Such an approach will bring into bold relief those factors which are really relevant to the crucial issue of preventing recidivism and those which have little or nothing to do with it. By thus systematically comparing the individual delinquent with a composite portrait of hundreds of others, in respect to characteristics previously demonstrated to be most nearly relevant to recidivism or reform, the judge can truly individualize the particular offender through noting his similarities and differences in relation to "norms." Without comparison of the individual with such norms based

4. See *The Sentencing Behavior of the Judge*, by FREDERICK J. GAUDET, in *Encyclopedia of Criminology*, pp. 449 *et seq.* and bibliography therein.

on past experience, the judge is, at best, relying upon "impressions" or "hunches" or that vague and unmeasurable something called "professional experience."

Such a description of individualization would seem to be the realistic answer to the first sub-question that grows out of our main question.

(b) The second crucial sub-question is: Is there available, for the purposes of individualization, an instrument that can aid the judge in determining which factors are truly relevant to the sentencing issue and how much weight to give such factors in the particular case before him?

Some American criminologists believe there is. The answer lies in the prognostic instrument known as the prediction table. In a large number of "follow-up" researches which have checked on the post-treatment careers of various classes of ex-prisoners, Dr. Eleanor T. Glueck and I have constructed a series of prognostic instruments which give reasonable assurance of bringing about better sentencing practices and treatment results than are achieved at present.⁵

It would require too extensive a discussion to describe and illustrate in detail the prognostic devices developed for sentencing to various types of imprisonment, for placement on probation, for release on parole, and for predicting the post-parole conduct of former prisoners. Our various publications render full account of the techniques of prediction. However, a brief exposition of the method is justified by way of illustration.

In our first study, *500 Criminal Careers*, we thoroughly investigated the pre-institutional life histories of 500 former inmates of the Massachusetts Reformatory for young-adult felons, during a five-year post-parole "test period" following their discharge from that institution. Some fifty factors in the constitution, social background and behavior of these offenders, from childhood through the parole and post-parole periods, were explored and analyzed. By means of correlation or association tables, the degree of relationship between each of these biologic and social factors and the post-parole behavior of the men was determined. To give one example, in respect to their pre-Reformatory indus-

5. GLUECK, SHELDON AND ELEANOR T., *500 CRIMINAL CAREERS*, New York, Knopf, 1930; *ONE THOUSAND JUVENILE DELINQUENTS*, Cambridge, Mass., Harvard University Press, 1934; *500 DELINQUENT WOMEN*, New York, Knopf, 1934; *LATER CRIMINAL CAREERS*, New York, The Commonwealth Fund, 1934; *JUVENILE DELINQUENTS GROWN UP*, New York, The Commonwealth Fund, 1940; *CRIMINAL CAREERS IN RETROSPECT*, New York, The Commonwealth Fund, 1943; *AFTER-CONDUCT OF DISCHARGED OFFENDERS*, Macmillan, London, 1945; *UNRAVELING JUVENILE DELINQUENCY*, New York, The Commonwealth Fund, 1950. For a scholarly survey of existing prediction studies in the United States (not including, however, the prognostic devices developed in *Unraveling Juvenile Delinquency*) see Mqnachesi, Elio D., *Prediction of Criminal Behavior*, *ENCYCLOPEDIA OF CRIMINOLOGY*, p. 324; and *American Studies in the Prediction of Recidivism*, 41 *J. CRIM. L. AND CRIMINOL.* (1950), 269.

trial habits the men were sub-classified into "good worker,"⁶ "fair worker"⁷ and "poor worker."⁸ By correlating each of these industrial categories with the criminal behavior of the men during the five-year test period, it was found that of the good workers, 43 percent continued to commit crimes during the post-parole test period; among the fair workers, 59 percent recidivated; of the poor workers, 68 percent were criminalistic. These percentages we call "failure-scores," because they indicate the proportions of the different sub-classes of the men who failed to reform, considered from the point of view of their status in respect to such a factor as, for example, pre-Reformatory industrial habits.

Similar correlations were established between each of the fifty biologic and sociologic factors, on the one hand, and the post-parole behavior, on the other, with the result that many factors were found to bear very little relation to post-institutional recidivism, while some showed a very high association therewith. In addition to "Industrial habits preceding entrance to Reformatory," the following five factors, among those of greatest relationship to post-parole conduct, were then employed in the construction of a table which judges could use in the sentencing of offenders: 1. Seriousness and frequency of pre-Reformatory crime; 2. Arrest for crimes preceding the offense for which sentence to the Reformatory had been imposed; 3. Penal experience preceding Reformatory incarceration; 4. Economic responsibility preceding sentence to the Reformatory,⁹ and 5. Mental abnormality.

6. *Good worker*: Reliable, steady, industrious; showing promise of continuing in regular employment; commended by employers.

7. *Fair worker*: A person who has the qualifications of the regular worker, but who permits his work to be interrupted by periodic drinking, the drug habit, occasional vagabondage, stealing or by deliberate choice of irregular occupations such as longshoring, for the chief purpose of having leisure time.

8. *Poor worker*: One who is not reliable, loafs, is lazy, dishonest, unstable, a vagabond, wayward. These factors were considered independently of the nature of the employment (except where support was derived through proceeds of prostitution or other illegitimate occupations) or seasonal or other fluctuations in industry; and express the man's general disposition toward work. The judgments are based upon the combined opinions of employers, police and relatives, the last being given the least weight. Thus a *poor worker* is one who, in the long run, constitutes a liability to the employer.

9. *Economically responsible*: Contributing toward his own support and toward the support of his parents if such aid was needed; if married, supporting his family. *Economically irresponsible*: Not contributing; being a burden on parents; making no effort even partially to support self or family if married. This factor does not take into consideration the extent of self-support or contribution toward family income but pertains rather to the youth's disposition to meet his economic responsibilities.

The percentages of "total failures" for the sub-categories of the above factors are: (1) Serious offender 67 percent, frequent minor offender 53 percent, occasional minor offender 35 percent, non-offender 21 percent; (2) Offenders with prior arrests 69 percent, those without prior arrests 32 percent; (3) Offenders with prior penal experience 74 percent, those without prior penal experience 47 percent; (4) Economically responsible offenders 41 percent, economically irresponsible 64 percent; (5) Offenders showing no marked mental abnor-

By adding all the *lowest* percentages of failure (recidivism) associated with the various sub-categories of these six factors, on the one hand, and all the *highest*, on the other, the two possible limits of "total failure-scores" were determined. These turned out to be 244 as the lowest, and 396 (or more) as the highest. Within this range of lowest and highest total failure-scores, the following sub-classes of total failure-scores were then established: 244—295, 296—345, 346—395, 396 and over. Finally, all 500 cases were distributed in a table according, on the one hand, to each offender's total failure-score on all six predictive factors and, on the other, according to whether, so far as post-parole behavior is concerned, he turned out to be a success,¹⁰ partial failure,¹¹ or failure.¹²

This resulted in the following table:

Total Score on Six Factors	Status Regarding Post-Parole Criminality		
	Success	Percentage of Partial Failure	Failure Total
244—295	75.0	20.0	5.0
296—345	34.6	11.5	53.9
346—395	26.2	19.1	54.7
396 and over	5.7	13.7	80.6
All cases	20.0	15.6	64.4

From such a table, a judge who is considering whether or not to sentence any particular offender to a Reformatory, can with reasonable accuracy, determine the advisability of such disposition of the case before him, provided he has reliable information as to that offender's

mality at time of entrance to Reformatory 60 percent, psychopathic personalities 75 percent, psychotics 87 percent.

10. *Success*: No police or court record, except occasional technical automobile law violations; no dishonorable discharge or desertion from Army or Navy; no actual commission of individual criminal acts whether or not arrest or prosecution resulted.

11. *Partial Failure*: Conviction on two minor offenses or arrest for not more than three minor offenses not followed by conviction. In the case of technical automobile offenses or drunkenness, as many as five arrests were allowed for the partial failure class. Partial failure was also assigned to cases in which there had been arrests for not more than two serious offenses not followed by conviction; or arrest for one serious offense not following by conviction and for not over two minor offenses not followed by conviction, or occasional minor offenses for which the violator of the law was neither arrested nor prosecuted (*i.e.*, cases of sporadic, rather than continuous, misconduct definitely known to have occurred but as to which no official action was for various reasons taken).

12. *Total failure*: Cases in which there had been arrests for three or more serious offenses, not followed by conviction, or arrests for more than three minor offenses (except drunkenness) not followed by conviction; or convictions for one or more serious offenses; or convictions for more than five charges of drunkenness; or desertion or dishonorable discharge from Army or Navy; or offender was a fugitive from justice or wanted for escape; or known commission of serious offenses, or a continuous course of minor offenses for which the men were somehow not arrested or prosecuted.

status in respect to the six simple predictive factors upon which this prognostic instrument is based. A prisoner scoring as low as 244 to 295 on these six factors which have been found (by comparison of factors with outcomes in hundreds of cases) to be relevant to the question of reform or recidivism, belongs to a class that has seven-and-a-half in ten chances (75:100) of turning out a success, *i.e.*, of not committing crimes during the post-parole period. On the other hand, one with as high a failure-score at 396 or over has but half a chance in ten (5.7:100) of succeeding under this type of peno-correctional treatment. The first man also has two in ten chances (20:100) of failing only partially, and only half a chance in ten (5:100) of turning out a total failure. The second has only one-and-a-half chances in ten (13.7:100) of partial failure and the high probability of eight out of ten chances (80.6:100) of turning out to be a complete failure.

It should be mentioned that among some fifty factors, not merely the six which happened to form the basis of the prediction table illustrated above, but a number of others, were found to bear an appreciable relationship to the post-institutional behavior of offenders. If information on some of these other factors can more conveniently be supplied than others, they may also be employed, with fairly good prognostic results in constructing prediction tables. One weakness of the table here presented is that it contains too many factors pertaining to pre-Reformatory criminal activity; however, other highly relevant factors might have been used in their place.

Since this first table was published, we have improved and refined many prognostic tables, have prepared them for each of the existing forms of punishment or correction which American laws place at the disposal of judges, and have prepared instruments for predicting success or failure when offenders reach various ages.

But do such tables really work?

The probably effective use of such tables is today beyond the stage of mere speculation. Validation of the prognostic instruments by applying them to other large samples of offenders is establishing their efficiency in predicting future behavior. For example, one of the tables we presented in *Criminal Careers in Retrospect* in 1943 deals with the conduct of the former prisoners of the Massachusetts Reformatory as soldiers in the armed forces during the first world war. By applying that table to a random sample of 200 soldiers who had committed crimes while in the army in the second world war it was demonstrated that in 84.5 percent of the 200 cases, the prediction table would have foretold that the young men in question would commit military offenses in the armed forces,

while in an additional 10 per cent the table would have shown that the chances of the young men not committing offenses while in the army were only 50—50.¹³

Thus, prediction tables, founded on the thorough and systematic inter-relationship between relevant factors and subsequent behavior, give a highly promising answer to our second sub-question of Question I. Such tables, being based upon an analysis of *results*, would induce judges to individualize in terms of *objectified and systematized experience*, instead of attempting to arrive at decisions from a mere reading of a presentence report or *dossier* covering a great deal of information without knowing which parts of it are really relevant. Suppose, for example, that a judge had before him separate prognostic tables based on fines, on incarceration in a prison, on imprisonment in a reformatory or Borstal institution, on commitment to a special school for juvenile delinquents, on probation; or, even more discriminatively, on results obtained in the past by different probation officers. And suppose that the judge, upon consultation of this series of predictive tables, found that Prisoner X, according to past experience with other prisoners who in certain pertinent respects resembled X, had nine out of ten chances of continuing in crime if sent to prison, eight out of ten if sent to a reformatory or Borstal, six out of ten if committed to the industrial school, five out of ten if placed on probation, and only two out of ten if placed on probation under the oversight of Probation Officer Y. Clearly, the judge would have very pertinent organized data in the light of which to individualize; that is, to discriminate scientifically among several alternatives, and choose the one most suited to the particular offender in question.

By recommending the use of prognostic devices, the aim is not to substitute statistical tables for judicial experience in the sentencing of offenders. It is rather to supply the judge with an instrument of prime importance in his work of individualizing justice. A judge should not follow these tables blindly. They are designed to help him set the individual in the perspective of organized experience with hundreds of other offenders who in many crucial respects resemble the offender before him for sentence. As to some factors the offender remains a unique personality; but the dimensions of the problems he presents can be much more accurately assessed by the judge if he compares the crucial prognostic traits with the total picture of hundreds of other offenders than if he relies exclusively on his unorganized "experience."

It is submitted, that only by some such procedure can we speak of

13. SCHNEIDER, A. J. N., LA GRONE, C. W., GLUECK, E. T., AND GLUECK, S. "Prediction of Behavior of Civilian Delinquents in the Armed Forces," 28 MENT. HYG. (1944), pp. 1, 12.

"individualization" in any realistic sense. Only by such self-imposed discipline of the court's judgment in individual cases, through viewing each case not only in the light of its facts but in that of organized and systematized experience with numerous similar cases, can the process of individualization become relatively effective.

IV.

The foregoing analysis would seem to lead to the following major conclusions:

(1) In the modern administration of criminal justice, a pre-sentence report, covering not merely the circumstances of the crime but also biologic and sociologic factors in the constitution, personality, character, and socio-cultural background of the offender, is an indispensable basis for the sentencing and treatment processes, at least in the case of serious but non-political crimes.

(2) The scope and intensity of the investigation and report should be sufficient to furnish the judge with enough information to make a reasoned choice among alternative sentences permitted under a state's penal laws; but where local administrative provisions and clinical facilities permit, the investigation and report should be extensive and intensive enough to provide, also, at least a tentative plan of peno-correctional treatment.

(3) The judge, who has observed the accused during the trial, can bring to bear on the sentencing process the rich resources of his training and experience. However, in the delicate and difficult art of "individualization," he can be greatly aided by considering relevant characteristics of the individual offender in the light of prediction tables derived from the systematic correlation of personal and social factors with the recidivism or non-recidivism of many previous offenders who have already been subjected to one or another of the various forms of peno-correctional treatment. It is therefore recommended that criminologists in the different countries conduct researches designed to develop prediction tables based on local experience, so that judges, as well as correctional administrators, may experiment with their use.

* * *

After debate in Section meetings and Plenary Sessions, the following somewhat modified resolutions were adopted by the Congress:

(1) In the modern administration of criminal justice, a pre-sentence report covering not merely the surrounding circumstances of the crime but also the factors of the constitution, personality, character and socio-

cultural background of the offender is a highly desirable basis for the sentencing, correctional and releasing procedures.

(2) The scope and intensity of the investigation and report should be adequate to furnish the judge with enough information to enable him to make a reasoned disposition of the case.

(3) In this connection it is recommended that criminologists in the various countries conduct researches designed to develop prognostic methods ("prediction tables," etc.).

(4) It is further recommended that the professional preparation of judges concerned with peno-correctional problems include training in the field of criminology.

(5) In the countries of Latin law, the personal examination will be optional in the cases where the law permits the provisional release of the accused. In the cases where the law does not permit the provisional release of the accused, the personal examination shall be compulsory.