

Summer 1965

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Recommended Citation

Albert Morris, The Comprehensive Classification of Adult Offenders, 56 J. Crim. L. Criminology & Police Sci. 197 (1965)

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THE COMPREHENSIVE CLASSIFICATION OF ADULT OFFENDERS

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Professor Morris has observed and studied the penal and correctional systems of a number of countries and he has also conducted field studies in anthropology among some American Indians and Central Australian Aborigines. Among his publications are two books: *Criminology* (2d ed. 1938), and *Criminals and the Community* (1953).

The present article is a revised version of a paper Professor Morris presented at the 1963 meeting of the American Society of Criminology.—EDITOR.

It appears to be a nearly universal trait in Western culture to group things together on the basis of selected similarities, whether it be the simple, spontaneous identification of good guys and bad guys or the meticulously detailed classification of a Linnaeus. A reading of the literature of criminology from Lombroso to the latest volume of the "Journal of Criminal Law, Criminology and Police Science" will show that criminologists have made a considerable contribution to this process.

With the many typologies developed by those who have found it useful for administrative and treatment purposes to develop classifications of offenders committed to their care this paper is not concerned. Such typologies, based upon clinically derived data can contribute to the effective use of limited treatment resources but they are inadequate for the concerns of criminology as a science which directs its interest more broadly to the nature and significance of crime and criminal behavior as an aspect of human behavior and to the norms of conduct defined by the criminal law as an aspect of conduct norms in general. For this latter purpose only a comprehensive classification of all offenders against the criminal law will do.

It is the purpose of this paper to suggest such a classification; one that will be compatible with the criminal law and at the same time useful to behavioral scientists in minimizing confusion in the use of the terms "crime" and "criminals" and by suggesting a framework within which diverse approaches and contributions to the analysis of criminal conduct norms, criminal behavior and

criminal offenders may become more effectively collaborative.

It should be obvious that any such taxonomy should be based, throughout, upon some significant common principle and that its categories must be mutually exclusive and of comparable value. The obvious is stated, however, because published typologies that include, "The Habitual Criminal" and "The Professional Criminal," "The Embezzler" and "The White Collar Criminal," or "The Non-Professional Property Offender" and "The Naive Check Forger" in the same taxonomy do not meet these requirements.

Beyond these necessary conditions it would be desirable that the taxonomy be unambiguous in its referents, sharp in its definitions, eclectic in its base and heuristic in its effects.

An essential preliminary to scientific investigation is a clear and valid definition of the universe to be explored. On this there has been an apparently wide difference of opinion between those who accept the content and boundaries of behavior set by the criminal law as the basis for determining who are the criminals and those who feel that the categories set up by the criminal law do not meet the demands of the scientist because they are fortuitous and do not arise intrinsically from the nature of the subject matter.

Thirty years ago, Michael and Adler observed that "We cannot make empirical investigations of crime and criminals unless we have some basis for differentiating criminal from other behavior and criminals from other persons that will be so precise and definite that we will not confuse them in our

observations. . . . Not only is the legal definition of crime precise and unambiguous, but it is the only possible definition of crime. . . ."

"The most certain way to distinguish criminals from non-criminals is in terms of those who have been convicted of crime and those who have not. . . ."

In contrast to Michael and Adler's unequivocal acceptance of the criminal law as the basis for defining both crime and criminals, Znaniecki, ignoring legal prescriptions, wrote: "Because a collective system has social validity in the eyes of each and all of those who share in it, because it is endowed with a special dignity which merely individual systems lack altogether, individual behavior which endangers a collective system and threatens to harm any of its elements appears quite different from an aggression against an individual. . . . It is not only a harmful act, but an objectively evil act, a violation of social validity, an offense against the superior dignity of this collective system. . . . The best term to express the specific significance of this behavior is crime."²

Sellin, quoting these authors in his "Culture Conflict and Crime,"³ rejects Znaniecki's extension of the meaning of the term "crime" but nevertheless takes the position that "The unqualified acceptance of the legal definitions of the basic units or elements of criminological inquiry violates a fundamental criterion of science. The scientist must have freedom to define his own terms based on the intrinsic character of his material and designating properties in that material which are assumed to be universal. . . ."

"Nor is it claimed that the study of criminology as traditionally conceived has no value. . . . What is claimed is that if a science of human conduct is to develop, the investigator in this field of research must rid himself of shackles which have been forged by the criminal law. . . ."

This sort of confusion continues to bedevil criminologists unnecessarily. The source of the difficulty appears to be a failure to recognize that definitions of "crime" and "criminals" are derived from different sources.

"Crime" is a legal term in the same sense that psychosis is a psychiatric term and the criminal law provides the only possible definition of crime useful to the social scientist. It defines a set of

conduct norms that are distinguished from other sets of conduct norms in being the only official and binding statement of minimum standards of conduct generally applicable to all, or to all in certain classes of people within its jurisdiction; norms which are explicitly stated, authoritatively defined, universally demanding, the violation of which is considered socially harmful, and which may be prosecuted in the name of the state in accordance with established rules, and followed, in the event of conviction, by specified punitive sanctions. It is these norms, and their violation, that are the focus, but not the limits, of the criminologist's attention.

The fact that the criminal law may represent selected norms favored by a minority, that these norms may differ from place to place or over a period of time does not distinguish them from other conduct norms all of which share these characteristics. Nor does a focus of attention upon the norms established by the criminal law of a particular time and jurisdiction preclude the broadest projective theories of conduct norms of which the investigator is capable, any more than the study of psychotic behavior precludes deriving therefrom general theories and principles applicable to mental health. Each is starting point, not an end.

Though "crime" is a legal term, the noun, "criminal," is not. The criminal law talks about "the accused," "the prisoner" and, especially, about "any person who" does certain specified acts. It does not talk about "the criminal." In other words it refers to the offender or alleged offender in terms of his specific status during a specific part of the process of dealing with him. Criminal is an unofficial or popular designation. To say that one is a criminal is analogous to saying he is sick. It may indicate that the person is presently in a state of vague and undefined criminality (cf. sickness) but without any judgment as to whether he will continue to be criminal (sick) or that he is persistently criminal in behavior (cf. chronically ill).

Whether the person who breaks the criminal law is, therefore, to be defined as a criminal is a matter about which we have as much freedom of decision as we have in determining whom to call sick. At any rate the term criminal does not yet have a precise technical meaning and should not be used as though it has.

If these contentions are valid, the criminologist

¹ MICHAEL AND M. ADLER, *CRIME, LAW AND SOCIAL SCIENCE* (1933) 1.

² ZNANIECKI, *SOCIAL ACTIONS* (1936) 350.

³ SELLIN, *CULTURE CONFLICT AND CRIME* (1938).

should feel free to define and classify those who break the criminal law so as to produce a natural taxonomy of some significance rather than one that is fortuitous. The result of such an effort may not be the formulation of Sellin's "universal categories" relative to a science of human conduct but it could result in categories relevant to a science of criminology.

It is assumed that a taxonomy that includes *all* criminal law breakers will be a theoretical formulation. Although it cannot yet be derived from adequate systematically developed data it can draw upon a not inconsiderable body of empirical materials that varies in the extent and depth of its coverage and in the nature and quality of its content. The immediate result will obviously not be a definitive taxonomy but a working suggestion; a step in the direction of ultimately producing a more detailed framework within which the results of existing studies—whether legally, psychologically or sociologically oriented—may find a place; and which may contribute to a greater measure of direction and continuity of research and to more effective communication among criminologists.

Such a taxonomy would preferably use established referents as far as possible. The changes from existing ones here suggested, are slight but, perhaps, important. The taxonomy is necessarily based upon a principle that encompasses all types of adult offenders including those for whom psychiatric and social case histories are not presently available.

It is suggested that offenders be classified on the basis of the degree of their apparent commitment to the violation of the norms represented by the criminal law as indicated by a combination of such factors as: the frequency and continuity of offending; the seriousness or social harmfulness of the offenses; the deliberateness of the intention to commit an act known to be forbidden by the criminal law; the extent to which criminal acts occupy the "life space" of the offender; and the offender's self-image as a criminal or non-criminal.

Using such criteria offenders might be classified under the following headings which represent a scale or continuum ranging from minimal to maximum commitment to crime as a way of life:

1. Legalistic or technical offenders

This would include those whose offenses are, in law, referred to as *mala prohibita*. They may involve no criminal intent, no *mens rea*. Such acts,

though potentially harmful may, in fact, cause no harm at all. They are chiefly committed through ignorance, thoughtlessness, or a decision—possibly a rationalization—that, under the specific circumstances existing at the time, the harm anticipated by the law will not occur or that taking a slight risk has the probability of producing a desirable good.

No doubt all ambulatory adults have committed and do commit such offenses from time to time. The offenders therefore constitute not merely cross sections of a society but the total adult population. It may be that the more highly repetitive among these offenders are among the more asocial, but as a group, they represent the general range and degree of socialization of the total population and its subgroups. There is no doubt that some legalistic offending is directed against regulatory statutes that are not only unwise and ill-considered but even unjust and harmful.

Of these offenders alone it may properly be said that they are a product of legislative action. This increasing body of regulatory legislation is induced by factors of high population mobility and density, speed of movement, technical complexity and impersonality in which it may be difficult for one to foresee the social consequences of behavior or to develop habits of social safety and to maintain them at a constant level of alertness and good judgment.

Popularly those whose offenses are limited to this level are not thought of as criminals and procedurally they are likely to be dealt with in a manner that sets them apart from those more usually regarded as criminals—including a tendency to ignore such offending altogether except under conditions of special hazard. The indicated treatment may be chiefly educative: the awareness that the act is a crime, that it is punishable, that it is potentially, if not actually, harmful.

This level of offending naturally suggests queries as to the circumstances under which such legislation is enacted, what its effectiveness is in controlling behavior under specified conditions, and what are the objectives and consequences of such legislation. It is a neglected but important area.

2. Situational Offenders

These are defined as offenders who have violated the criminal law under situations of great provocation, stress, and difficulty, of the sort in which any ordinary person might behave irrationally or in-

adequately though not necessarily criminally. Situational offenders are defined as persons who are normally lawful in their behavior, who have no conscious wish or intent to break the law but who have responded with poor judgment and skill and less foresight and control than the situation required.

Situational offenders may be involved in almost any type of offense from petty theft to murder or espionage—under conditions of blackmail, for example—but because they are unlikely to have criminal records they are not likely to be prosecuted or imprisoned except for serious offenses against persons or, perhaps, government.

Although there may be some weighting of this group with offenders who are psychologically unstable or low-normal in mental capacity, by definition the precipitating factor is the overwhelming situation and the immediately effective socio-cultural milieu is often one of limited social advantage and anomie.

The indicated treatment is most commonly at the level of counseling and social work assistance. Situational offenders are not likely to become recidivists nor to pose any greater risk of continuing danger to society than non-offenders.

This level lends itself to investigation of what kinds of situations are overwhelming to what kinds of people under what circumstances and what determines whether the behavior response will be a violation of the criminal law.

3. *Pathological Offenders*

This term is used with some hesitancy as being both broader and less frequently misunderstood than sociopathic or psychopathic which it includes.

These offenders are at the opposite end of the see-saw from the situational offenders. Unlike the latter, pathological offenders are chronically abnormal. Their offenses are symptomatic of their basic psycho-somatic problem. They may be the kinds of people loosely referred to as inadequate, the kinds of people who definitely do not have the world by the tail, people who are pushed around not so much because others are against them as because they get in the way. And, they range all the way from these merely inadequate personalities to those who are psychotic.

Many of them have obvious constitutional handicaps, inherited or acquired. Preponderantly they have grown up under conditions of limited socio-economic resources in which a catch-as-catch-

can existence has involved poor health habits, early and excessive use of alcohol, sometimes but much less frequently drugs, little or no medical care, and a life of continual personal problems, crises and frustrations that have been met by retreat rather than effective management.

These are the offenders who are most commonly arrested and convicted. These are the ones who constitute the bulk of the cases in the lower criminal courts. These are the ones who comprised most of the 2,109,127 city arrests for drunkenness, disorderly conduct and vagrancy in 2,936 cities over 2,500 population in 1962; this being a fraction under 50% of all of the arrests, except for traffic offenses. Among the pathological offenders are those convicted of or guilty of indecent exposure, molesting children, homosexual acts and other abnormal offenses including even larceny under some circumstances. (From a socio-psychological standpoint I would guess that the larceny of women's undergarments from clotheslines might best be regarded as a sex offense; and prostitution might, more reasonably, be regarded as larceny by fraud rather than as a sex offense!)

The economic loss associated with such offenders is undoubtedly great and, as in the instance of the psychotic who kills, the individual loss may be irreparable. Numerically, the pathological offender is more often an annoyance than a danger. The misfortune lies in the offenders' poverty of potentiality. Essentially the pathological offender poses a problem of mental health in terms of both prevention and treatment.

This category invites question as to the extent to which the norms violated by these offenders are defined as crimes to provide for compulsory protection of social rejects; to what extent are they intended to protect the public from annoyance rather than harm; and what are the advantages of defining such behavior as criminal and what are the alternatives and their social consequences.

4. *Avocational Offenders*

These are preponderantly normally socialized, respectable, and law-abiding people whose primary occupations and efforts are legitimate but who habitually commit criminal offenses in the normal course of carrying on their occupations. Avocational offending is primarily a response to the priority given to the value of financial success over legitimate business procedures for attaining it. Such offending may be rationalized as a customary

part of the sub-culture of business in an aggressively competitive economy and defined, not as a violation of trust, but as a calculated risk that is an expected part of the game. If this sounds like Sutherland's white collar criminal it is, in part, but it is not limited to offenders of high social status because the attributes of white collar crime that constitute its most significant characteristic are shared by offenders who wear blue collars, coveralls, uniforms, and even dresses. Whether the avocational offender is an executive of a major electrical company who conspires to fix prices, a doctor who charges for a cataract operation when he removes a sty, a contractor who bribes an inspector to let him build a road below specifications or a garage mechanic who charges for work not done and for parts neither needed nor installed, the result is a betrayal of public trust, a tendency to undermine confidence and a contribution to harmful social disorganization.

Perhaps this sort of offending is more obviously responsive to perceived social values, the general level of morality and the effectiveness of socializing agencies than to peculiarly individual deviant developmental factors.

The question arises as to the circumstances under which avocational offending is defined as crime and by whom it is so defined; and what are the consequences of avocational offending. What is the relation of avocational offending to general norms of conduct?

5. Career Offenders

These are the "real criminals"; should I say, the honest criminals? They are the ones most people seem to have in mind when they talk about crime. Essentially they are what the law calls property offenders although a tiny minority may earn a living by assault and battery, mayhem, or murder.

They differ from avocational offenders in that they get their living wholly or chiefly by behavior that is consciously a violation of the criminal law. Those who concurrently engage in legitimate business enterprises do so, usually, as an aid to their central criminal activities. They may justify their activities on the ground that dishonesty is universal and everybody has his "racket"; but their law violation is deliberate and repetitive and it is the focus of their vocational interest. It involves consciously contrived facilities, techniques and patterns of behavior designed to protect them from detection, arrest, conviction and punishment.

Of course Career Offenders—and for that matter offenders who would be placed in the Legalistic, Situational or Avocational categories—may be suffering from minor or major personality disorders, but for these types, as distinguished from Pathological Offenders, their criminality is not a direct expression and symptom of their pathology.

It might be serviceable to think of career offenders in terms of subtypes as:

Individual entrepreneurs (such as, the solitary pick-pocket, the check forger. The generally misused label "professional" is inappropriate.)

Small group or Team offenders (for example, counterfeiters and hijackers).

Business organization men (for example, members and employees of Cosa Nostra).

Career offenders appear to have originated chiefly in areas of low lower class experience and patterns of behavior, which have limited their opportunities for, and their awareness of opportunities for lawful achievement of certain highly emphasized, socially approved goals, and in which differential association has inducted them early into functional but delinquent procedures for meeting their needs. The problem here is one of the role of a delinquent sub-culture in society and of the means of breaking the continuity of its transmission. Indicated treatment is directed towards changing individual and group attitudes and values specific to law violation.

The question arises as to whether career offending inevitably reflects a functional adjustment to the limitations of a lower class culture. What are the feasible alternatives to career offending? What is the relation of career offending to avocational offending and to general social norms and patterns of conduct?

It should be noticed that *this typology is not a classification by offenses*: a person who commits murder might be a situational offender, a pathological offender or a career offender. *The classification is cumulative*; in other words, an avocational offender might also be a situational or a legalistic offender but one classified as a legalistic offender would not be an avocational offender. *It avoids the use of the noun "criminal" for scientific purposes and substitutes tentatively defined categories of offenders*; meaning, within the context of criminology, offenders against the criminal law.

For purposes of application, each of these categories requires more detailed and precise definition.

The taxonomy if further developed could be numerically coded after the general pattern of a Library of Congress or Dewey Decimal System and the materials presently available might be brought together and cross referenced in a manner that would be an adaptation of the Culture Area Files.

Sources of new data might include empirical studies of the patterns of behavior and the circumstances associated with specific kinds of offenders directed towards ultimately completing a standardized outline of study that might include:

1. The legal definition of the offense or offenses involved.
2. The "structure" of the offense including both techniques and the pattern of relationships.
3. The characteristics of the offenders including their classification according to the taxonomy heretofore suggested.
4. The identification of the victims—Who is harmed?—including primary, secondary and tertiary victims and others as appropriate.
5. The characteristics of the victims including their classification in terms of a taxonomy of

victims and the nature and extent of their injuries.

6. The structure of offender-victim relationships.
7. The effective related socio-cultural milieu; what Lacassagne referred to as "le bouillon de culture de la criminalité."

Studies intended to provide empirical data directed toward the systematic analysis of offenders and patterns of offending in accordance with this outline, or any indicated refinement of it, would benefit by interdisciplinary collaboration and might profitably be carried out by interdisciplinary research teams in which competency in criminal law, police investigation, psychiatry, psychology and sociology would be represented. Ultimately there might emerge a model for criminological studies that would help to assure a greater measure of order and continuity in data gathering and an improvement in the precision and understanding with which we communicate. The latent values of such an effort might also be considerable.