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Parole in theory and practice an evaluation of factors affecting the parole concept

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INTRODUCTION

Montana has at long last started on the road toward doing something constructive with its adult criminal offenders. Under the 1955 Session Laws a new Board of Pardons was created providing for a new system of releasing offenders on parole and probation under the supervision of a Parole Supervisor and giving authority to the Board and its staff to make certain rules and regulations regarding the conduct of men released under its jurisdiction. The Act under which this Board was created was patterned after the model law set by the National Probation and Parole Association for the use of States who were contemplating changes in their releasing procedures.

There are many factors affecting the parole system or concept as it operates today and it is the purpose of this study to show what they are, when and how they occur, and what could be done to change the undesirable factors that are subject to change. Treatment and preparation for return should begin at the time of commitment and from then on it should be a series of steps leading outward, back to society. We might compare the process to the moral and social training of a child with rewards at various points along the way, only in this case it is the retraining of an adult who has demonstrated that he is morally and socially unstable.

Needless to say, parole is toward the terminal end of the retraining program, and therefore in order for parole supervision to
function at its best it must be preceded by an adequate retraining program which began at the time the offender was committed to the State correctional institution.

To be sure, there is a certain amount of risk involved to society at the terminal end of this retraining program. That is why the purpose of parole, as was recently restated at the National Conference on Parole in Washington, D.C., April 1956, is still "the protection of society and the rehabilitation of the offender." These purposes are so inseparable and indispensable as to be considered a common goal. Over against this risk, consider the risk involved to society when men are released from correctional institutions with outright discharges and are under no supervision from any source. We are not achieving our purpose nor are we getting our moneys' worth if we send men to prison only to have them come back into society worse than when they went in. All too soon, society is again faced with the cost of apprehending the same man again, the cost of the trial and later, the cost of supporting him in the institution.

If anyone should think that cost does not play an important part in the picture, consider this quotation from a speech given by J. Edgar Hoover at the National Conference on Parole, Washington, D.C., April 10, 1956:

"We complain about high taxes, but last year crime cost every man, woman and child in these United States $122, or a staggering estimated total of twenty billions of dollars. Perhaps this figure could become more meaningful if we realized that for every $1.00 spent on education, crime cost $1.46 and for every $1.00 which went to the churches of the nation, $13.00 went to crime."
When you think purely in terms of cost, consider the picture in Montana after the offender has been committed. It costs roughly $800 per year to keep a man in prison here. If he is married, the chances are about eighty-five percent of the time that his family has to be supported by the State Welfare Department. On parole, the cost to the State would be between $45 to $55 per man. We still have not mentioned the fact that as soon as the man is paroled and working, he is paying State and federal income taxes. The financial aspects, however, are not nearly so important as the gains that are made in the psychological and sociological aspects of rehabilitating or salvaging these moral and emotional invalids we call criminals.

The aim of this paper is to examine the parole system or concept as it operates today with special emphasis on the many factors that have a direct bearing on its proper function. Some of these factors are:

I. The Sentencing Laws

II. The Correctional Institution
1. The inmate composition
   a. Special sample group studied for developmental influences
2. The Institution program
   a. Does it meet the need brought out in 1-a?

III. The Paroling Authority and Field Operations
We intend to show from a representative group of 100 inmates the needs that have to be met in the period of incarceration and carried on through the parole period in order to effect a change in the individual for the better.
CHAPTER I

BACKGROUND AND EARLY HISTORY OF PAROLE

To begin a study of the various influences that are in the developmental background of criminal offenders, it might be wise to pause for a moment and consider how this parole idea became a part of our culture. No doubt the idea had its origin as an offshoot of the matter of intent or accident in a given crime.

Consider the arrangement provided for in Moses time: That if a man killed another and it could be proved by several witnesses that it was accidental, the man had to go to a certain city where he would live as a free man so long as he stayed in that city. However, if he left that city, the slain man's clan were at liberty to kill him if they could.

As we advance down the years from ancient times we begin to notice here and there the idea of "one more chance." It is reasonable to believe that man has gradually applied this idea, which originated in the religious atmosphere, more and more to his fellowmen so that a gradual evolution of thought has taken place in regard to what we shall do with our erring brothers. This brings us back to the ancient question, "Am I my brother's keeper?" and we seem to have concluded that we are both in a religious and a social sense.

It is not the purpose of this study to trace the evolution of social thought from Hammurabi and Moses to the present day but we are concerned mainly with the more recent background and beginning ideas of some method of treatment for criminals other than incarceration.
ORIGIN OF PAROLE

Parole is the conditional release, under supervision, of an individual from a correctional institution after he has served part of the sentence imposed upon him. Parole is an outgrowth of a number of independent measures. These measures include the conditional pardon, apprenticeship by indenture, the transportation of criminals to America and Australia, the English and Irish experiences with the system of Ticket of Leave, and the work of American prison reformers during the Nineteenth Century.

Early Methods. The transportation of criminals to the American Colonies began early in the Seventeenth Century. The precedent for this removal of criminals from England can be found in a law passed in 1597 providing for the banishment "beyond the seas of rogues" who appeared to be dangerous. As early as 1617, the Privy Council passed an order granting reprieves and stays of execution to persons convicted of robbery, who were strong enough to work.¹/

The transportation of criminals to America was backed and supported by the London, Virginia and Massachusetts companies, and similar organizations. At the time the plan was proposed, acute economic conditions prevailed in England. Unemployment was widespread. Taxes were high and the English labor market was overcrowded. In an effort to satisfy the need for labor in the Colonies, the government devised the plan to

transport convicted felons to America. The plan was presented to the King and he approved the proposal to grant reprieves and stays of execution to the convicted felons who were physically able to work.

The procedure by which individuals were selected for recommendation to the King was somewhat similar to the present day methods followed by prison officials in recommending to the governors or parole boards in various states the names of prisoners whose minimum terms are to be decreased by compensation or commutation allowance for good conduct and work willingly performed.

In England, lists of names were compiled by court officials and signed by the judge or frequently by the mayor and recorder. The lists were then presented to the Secretary of State. In cases where a death sentence had been imposed, a stay of execution was automatically granted until the King had reviewed the recommendation made by the judge. The pardons granted by the King were written in Latin and accompanied by a docket in English, giving the name of the prisoner and his crime. In some instances a statement was added giving the reason why clemency had been granted.

In the beginning no specific conditions were imposed upon those receiving these pardons. However, a number of those pardoned had evaded transportation or had returned to England prior to the expiration of their term and it was found necessary to impose certain restrictions upon the individuals to whom these pardons were granted. In about 1655 the form of pardon was amended to include specific conditions and providing for the nullification of the pardon if the recipient failed to abide by the conditions imposed.
Transportation to America. During the early days of trans­
portation, the government paid private contractors approximately five
pounds for each prisoner transported. However, under the provisions
of a law enacted in 1717, this procedure was discontinued and the con­
tractor or shipmaster was given "property in the service" of the prisoner
until the expiration of the full terms. Once a prisoner was delivered
to the contractor or shipmaster, the government took no further interest
in his welfare or behavior unless he violated the conditions of the
pardon by returning to England prior to the expiration of his sentence.

Upon arrival of the pardoned felons in the Colonies, their
services were sold to the highest bidder. The felon was then referred
to as an indentured servant.

The system of indenture dates back to the Statute of Artifices enacted in 1562. Originally it had no relation to persons convicted of
crime. The contract of indenture was written on a large sheet of paper,
the halves separated by a wavy or jagged line called an indent. The
master and the apprentice or his guardian signed the form, thereby agree­
ing to conform with the conditions specified. Van Doren in his biography
of Benjamin Franklin quotes the conditions imposed upon Franklin in 1718,
when at the age of twelve, he became indentured to his brother:

2/ Laws of George I, Laws of 1717, Chapter 11.
4/ Laws of Elizabeth, Laws of 1562, Chapter 4.
"...During which term the said apprentice his master faithfully shall or will serve, his secrets keep, his lawful demands everywhere gladly do. He shall do no damage to his said master nor see it done to others, but to his power shall let or forthwith give notice to his said master of the same. The goods of his said master he shall not waste, nor the same without license of him to give or lend. Hurt to his said master he shall not do, cause or procure to be done. He shall neither buy nor sell without his master's license.

"Taverns, inns or alehouses he shall not haunt. At cards or dice tables or any other unlawful game he shall not play. Matrimony he shall not contract nor from the services of his said master day or night absent himself but in all things as an honest faithful apprentice shall and will demean and behave himself toward said master all during said term."

This indenture is similar to the procedure now followed by parole boards in this country. Like the indentured servant, a prisoner conditionally released on parole agrees in writing to accept certain conditions included on the release form which is signed by the members of the parole board and the prisoner. Some of the conditions imposed today on paroled prisoners are similar to those included on the indenture agreement.

Transportation to Australia. The close of the Revolutionary War ended transportation to America but England did not repeal her transportation law. Judges continued to impose sentences of transportation and the jails for prisoners awaiting transportation became overcrowded. Some attempt was made to relieve the situation by granting

pardons and also by using old ships as temporary prisons. Some prisoners were sent to Africa.6/

The unsanitary conditions and overcrowding in the jails and prison ships caused the government to take immediate action. Australia had been discovered and the government deliberated whether to use this land as a refuge for the thousands of American Royalists who had returned to England and were starving, or to establish Australia as a new colony for the reception of transported felons. In 1787 the King announced that Australia was to be used for convict settlement and in May 1787, Captain Arthur Phillip set sail with a shipload of convicts, arriving at Botany Bay on January 18, 1788.7/

The government set up a different procedure than had been followed before in dealing with prisoners transported to Australia. The criminals transported did not become indentured servants but remained prisoners under the control of the government which assumed responsibility for their behavior and welfare.

The first governor of the penal settlement was given "property in service" for all felons under his supervision. He inaugurated the plan of assigning prisoners to the free settlers and when this transfer became effective, the settler or new custodian took over the "property in service" agreement. Later governors tried other methods such as

7/ Ibid., p. 442.
hiring convicts to free settlers. In 1796 a census showed 361 self-supporting convicts, 3,638 not self-supporting, and almost a thousand transported to Norfolk Island.

No unbiased account of the history of transportation to Australia has been published. Authors who have dealt with this subject have given detailed accounts of the deplorable conditions which prevailed and the horrors which existed at Norfolk Island, Port Arthur, and the other penal settlements. The murders resulting from the sadistic treatment accorded to prisoners have been stressed and there are even accounts of prisoners who escaped and later practised cannibalism.3/

The power to pardon felons could not be delegated to any individual without statutory authority. In 1790 a special enabling act gave the governors of the penal settlements power to remit sentences of transported prisoners. Captain Phillip received instructions from the government regarding the emancipation and discharge from servitude of prisoners whose conduct and work records indicated they were worthy to receive a grant of land.2/ At first these prisoners received an absolute pardon. Later a new form of conditional pardon was instituted known as "Ticket of Leave." This Ticket of Leave consisted of a declaration signed by the governor or his secretary, excusing a convict from government work and enabling him, on condition of supporting himself, to seek employment within a specified district. No provision was made for his supervision by the government.


2/ Ibid., p. 444.
Until 1811, Tickets of Leave were freely granted to prisoners for good conduct, meritorious service, or for the purpose of marriage. In 1811, a policy was adopted requiring that prisoners serve specific periods of time before being eligible to receive Tickets of Leave. This procedure, however, was not strictly adhered to until 1821, when a regular scale was formulated. Those who had a sentence of seven years could obtain a Ticket of Leave after serving four years; those with sentences of fourteen years, after serving six years; and those with life sentences, after serving eight years.

Alexander Maconochie, Governor of Norfolk Island in 1840, devised some new methods of treating prisoners. However his experiments were limited to the prisoners confined in Norfolk and the success he achieved cannot be attributed to the entire Australian system.

Maconochie proposed that the duration of the sentence be measured by labor and good conduct within a minimum of time. The labor thus required would be represented by marks proportional to the original sentence, the prisoner to earn these marks in penal servitude before discharge. Marks were to be credited day by day to the convict, according to the amount of work accomplished. As Maconochie so aptly explained, "When a man keeps the keys of his own prison, he is soon persuaded to fit it to the lock." Maconochie remained at Norfolk Island for a period of only four years. Although his ideas were progressive and his experiments successful, his term of office was so short that his achievements did not have any revolutionary effect on the system of transportation.

With the increase of free settlers, Australian Colonists began to protest the government's use of the land for what they termed "a dumping ground for criminals." Although there were other reasons, the contributing factor in the decision of the government to terminate transportation to Australia, was the threat of the colonists to revolt. Before the transportation practice ceased, some effort had been made to alleviate some of the caustic criticism of the system by careful selection of the prisoners to be transported to Australia. The proposal was made that before transportation was effected prisoners would first have to undergo a period of training and discipline in penal servitude in England. It was planned that this training period would cover a period of eighteen months. The experiment of selection was a failure but it did mark the beginning of the utilization of trained and experienced individuals who were made responsible for the selection of the prisoners who had profited by the training program. Three prison commissioners were appointed to accomplish the selection. The membership of this group may have established the precedent followed by American prison reformers in creating boards of parole consisting of three members. The system of transportation to Australia finally ended about 1852. However the government was still paying for the support of convicts in Australia as late as 1890.

England's Experience with Ticket of Leave. In America as early as 1817 provisions had been made for the reduction of sentences by allowances for satisfactory work and conduct. The English Penal Servitude Act
of 1853 governing prisoners convicted in England and Ireland substituted imprisonment for transportation. By this Act, prisoners who received sentences of fourteen years or less were committed to prison but the judge had the power to order the transportation or imprisonment of individuals who had received terms of more than fourteen years. This law also specified the length of time prisoners were required to serve before becoming eligible for conditional release on Ticket of Leave.

Those who had sentences exceeding seven years but not more than ten years, became eligible for Ticket of Leave after they had served four years and not more than six years. Prisoners who had sentences of more than ten years but less than fifteen, were required to serve at least six but not more than eight years, and those with sentences of fifteen years or more were required to serve not less than six nor more than ten years. This was the beginning form of the minimum-maximum type of indeterminate sentence. America did not develop the use of the indeterminate sentence until nearly a quarter of a century after the enactment of the English Act of 1853.

The Act of 1853 related to conditional release and gave legal status to the system of Ticket of Leave. It provided:

"It shall be lawful for Her Majesty by an order in writing under the hand and seal of one of Her Majesty's principal secretaries of State, to grant to any convict now under sentence of transportation, or who may hereafter be sentenced to transportation, or to any punishment substituted for transportation, by this Act, a license to be at large in the United Kingdom and the Channel Islands, or in such part

11/ Laws of Victoria, Laws of 1853, Chapter 99.
thereof respectively as in such license shall be expressed, during such portions of his or her term of transportation or imprisonment, and upon such conditions in all respects as to Her Majesty shall deem fit; and that it shall be lawful for Her Majesty to revoke or alter such license by a like order at Her Majesty's pleasure.

"So long as such license shall continue in force and unrevoked, such convict shall not be liable to be imprisoned or transported by reason of his or her sentence, but shall be allowed to go and remain at large according to the terms of such license.

"Provided always, that if it shall please Her Majesty to revoke any such license as aforesaid, it shall be lawful for one of Her Majesty's principal secretaries of State, by warrant under his hand and seal, to signify to anyone of the Police Magistrates of the Metropolis that such license has been revoked, and to require such Magistrate to issue his warrant under his hand and seal for the apprehension of the convict to whom such license was granted, and such Magistrate shall issue his warrant accordingly, and such warrant shall and may be executed by the constable to whom the same shall be delivered, for that purpose in any part of the United Kingdom or in the Isles of Jersey, Guernsey, Alderney or Sark, and shall have the same force and effect in all the said places as if the same had been originally issued or subsequently endorsed by a Justice of the Peace or Magistrate or other lawful authority having jurisdiction in the place where the same shall be executed, and such convict, when apprehended under such warrant, shall be brought, as soon as he conveniently may be, before the Magistrate by whom the said warrant shall have been issued or some other Magistrate of the same Court, and such Magistrate shall thereupon make out his warrant under his hand and seal, for the recommitment of such convict to the prison or place of confinement from which he was released by virtue of the said license, and such convict shall be so recommitted accordingly, and shall thereupon be remitted to his or her original sentence, and shall undergo the residue thereof as if no such license had been granted."12/

12/ Ibid.
The following conditions were endorsed on the license of every convict liberated on a Ticket of Leave in England:

"1. The power of revoking or altering the license of a convict will most certainly be exercised in the case of misconduct.

"2. If, therefore, he wished to retain the privilege, which by his good behavior under penal discipline he has obtained, he must prove by his subsequent conduct that he is really worthy of Her Majesty's clemency.

"3. To produce a forfeiture of the license, it is by no means necessary that the holder should be convicted of any new offense. If he associates with notoriously bad characters, leads an idle or dissolute life, or has no visible means of obtaining an honest livelihood, etc., it will be assumed that he is about to relapse into crime, and he will be at once apprehended and recommitted to prison under his original sentence." 13/

The British public accepted that in compliance with the provisions of the law the programs followed in the prisons would be reformative and that prisoners selected for release on Ticket of Leave represented definite proof of having profited by the training and, therefore, their conditional release would not be incompatible with the welfare of society.

Long before the termination of transportation it had been recognized that the experiment followed in Australia of releasing prisoners on Ticket of Leave without further supervision, was a mistake. However, this knowledge did not prevent a repetition of the procedure. The public had assumed that the government planned to enforce the conditions imposed upon prisoners on Ticket of Leave but it was discovered later that the government had no such plan and, in fact, was disinterested.

13/ Ibid.
More than five thousand prisoners were granted Tickets of Leave during the first two years after the enactment of the Servitude Act of 1853. The outbreak of serious crimes which occurred within the next three years was attributed to the lack of supervision given the released prisoners. A campaign of criticism was carried on and Ticket of Leave men were blamed for most of the crimes committed. The public became convinced that the Ticket of Leave system was not only a menace to public safety but was an absolute failure.

The public wanted action to correct the misuse of Tickets of Leave. A committee was appointed to hold hearings and at one of the meetings a representative of the government testified that no efforts had been made to develop any plan for the supervision of Ticket of Leave men after release. The government had merely accepted that Ticket of Leave men were prisoners who had completed their sentences. The head of the London Police admitted that he had also misinterpreted the Provisions of the Act of 1853 and had, in fact, issued orders to the police that they were not to interfere with Ticket of Leave men.

Representatives of other law enforcing agencies asserted that it was not possible to identify Ticket of Leave men because no report on the convicts was furnished them by the officials granting the Ticket and they learned that Ticket of Leave men had destroyed their licenses to be at large as a means of avoiding apprehension and identification. The House of Commons brought the situation to the attention of the Queen, who appointed a Royal Commission. Public hearings were held.
Individuals who favored supervision by the police and those who opposed it appeared before the Commission. Ticket of Leave men testified that they objected to reporting to the police because the latter were considered their special enemies who dogged them and informed their employers of their criminal status. These men stated that they would be forced to steal or starve if supervised by the police, as no employer would hire them if aware of their criminal record. The police testified that if a Ticket of Leave man were required to report to the police in each community he visited, the need for watching would cease. They urged that the system of irregular supervision be abolished and that some uniform procedure with prescribed rules and regulations be established.

The Royal Commission in its report stressed the unreformative programs in operation in the prisons which rendered the prisoners unprepared for freedom. They also expressed the opinion that a large proportion of the prisoners released on Ticket of Leave had given no reliable proof of their reformation prior to release. The Commission strongly urged that England adopt the system followed in the prisons of Ireland. As a result of the report of the Royal Commission, the police were used for supervision and later a number of Prisoner's Aid Societies, supported partly by the government, were established. These agencies followed the methods of supervising prisoners which had proven effective in Ireland.
How similar the situation is today. In some states a regular list of men who have been paroled each month is sent to every law enforcement agency in the states. In other states this is not done, and the police are continually raising a clamor about it. In still other states the parolee is required to report, upon his arrival at his destination, to the nearest law enforcement office. Also, whenever a crime is committed by a parolee or an ex-convict, this fact is always brought out in large, bold-faced type in the newspapers.

The Irish System. Sir William Crofton became head of the Irish Prison System in 1854, just one year after the enactment of the Servitude Act. He believed that the intent of the law was to make penal institutions something more than mere places for detention and that the prison programs should be designed for reformation, and Ticket of Leave granted only to those prisoners who gave evidence of achievement and change of attitude.

Under Crofton's 8-year administration, the Irish system became well known for its three stages of penal servitude, particularly the second stage where he utilized Maconochie's marks system in which classification was governed by marks obtained for good conduct and achievement in education and industry. In the last stage, called intermediate prison, conditions were made as nearly normal as possible and no more restraint was exercised over the inmates than was necessary to maintain

order. The purpose of the intermediate prison was to see if the prisoner was ready to have his Ticket of Leave and able to make a try at functioning in free society in a law-abiding manner. This system is not unlike our present day parole camps which several states are now operating as a last stage between maximum detention and parole.

Developments in the United States. By the close of the Civil War, the Crofton System had been widely publicized in the United States and American penologists such as Z. R. Brockway, Superintendent of the Detroit House of Correction; Gaylord Hubbell, Warden of Sing Sing; and E. C. Wines of New York Prison Association began to consider the possibilities of such a system in this country. As a result of the interest by American penologists in the Irish System, a National Prison Association was formed at Cincinnati in October 1870 and at that time adopted a declaration of principles which stressed the indeterminate sentence and classification and reformation of prisoners. The principles of the Association began to take root, and in 1876 the Elmira Reformatory was opened in New York State, and embodied many of the Association's principles in its operation. In brief, four main points were stressed:

(1) An indeterminate or indefinite sentence, the length of time served to be dependent upon the behavior and ability of the prisoner within a statutory limitation.

(2) The status and privileges accorded to the prisoner, as in the Crofton plan, were to be determined by his behavior and progress.

15/ Ibid., p. 479.
(3) Education was to be compulsory.

(4) Provision was made for the release on parole of carefully selected prisoners.

Although no novel idea was brought forth in the administrative plan for Elmira, in its operation the system combined principles which are still valid today. The important feature of the indeterminate sentence was that no prisoner would be paroled until he was ready and prepared for freedom.

Parole as we know it today had its beginnings with Ticket of Leave in England, and Maconochie's and Crofton's methods in Australia and Ireland but, more directly, in the United States at the Elmira Reformatory in New York State. The procedures at that time are of some historical interest and worthy of note for comparison with present day practices.

Before being considered for parole, each inmate was required to maintain a good conduct record for twelve months. He was expected to have gained the confidence of his supervisors and before being released he was required to have suitable plans for permanent employment. When his release was approved, he was given a new suit of clothes and sufficient funds to reach his destination and to pay his immediate expenses. He was instructed to proceed to his employment and remain there six months if possible. He was required to report to his sponsor or guardian immediately on arrival and also to notify the Superintendent in writing.
that he had done so. One of the parole conditions was that he make a
report on the first of each month to his guardian regarding his situation
and conduct. The guardian's report and wage report from his employer
were sent to the Superintendent at Elmira.

With the great stress placed upon reformation and the knowledge
of England's experience with Ticket of Leave men, it should have been
obvious that if the new system was to have a fair trial, prison programs
would have to be revolutionized. Instead, state after state proceeded
to enact indeterminate sentence and parole laws without a thought of
changing their prison programs and, as a result, abuse of the intent and
purpose of indeterminate sentence laws became widespread.

No thought was given to the training of prisoners toward their
future adjustment in the community and both prison administrators and
inmates soon accepted the idea that, reformed or unreformed, allowance
of time for good behavior was automatic and release at the earliest
possible date was a right rather than a privilege. After release, super­
vision was either non-existent or totally inadequate if it was required.
The result was a duplication of the English experience. Every charge
that had been made against the English system of Ticket of Leave was
brought against parole administration in the United States. It has
only been in the last 20 years that drastic action has been taken by a
number of states to render prison reform and parole effective parts of
a state system of corrections.
It is now recognized that parole can be an effective method of community protection and at the same time offer constructive aid to the parolee. To achieve these objectives, the system must be adequately financed, non-political in operation, and supported by public trust and confidence. This last item, public trust and confidence, is something which has to be built up by the department itself and, of course, takes time.

Now that we have traced the origin and development of parole to the present period, we want to examine some of the factors which have a bearing on its operation. Beyond the immediate operation of the parole system itself, there are several factors which have a direct bearing on its proper and efficient functioning. One of these factors is the type of laws we have which govern our sentencing procedures. In the following chapter we will review some of the present type sentencing laws and sentencing procedures.
CHAPTER II
SENTENCING, PROBATION AND PAROLE

The principal purposes of punishment (and here we are using the word punishment as synonymous with the sentence) are retribution, reformation or rehabilitation and deterrence.\(^1\) Retribution tends to unite society against the criminal because he has threatened the established order. If those who disobey the law receive the same treatment as those who obey it, much of the reason for abiding by its provisions and having hostility against its violators disappears. While punishment through retribution does act to unify society against crime and criminals, it also has a disadvantage in the holdover attitude of "once a thief always a thief," and is a very distinct handicap to the offender once he is again free in society.

The reformation or rehabilitation aspect of the sentence seems to be the most promising factor in the total picture of sentencing or punishment. As Professor Caldwell says, if the punishment is to have its greatest effect upon the behavior of the offender, it must follow soon after the act for which it is given. This is in line with the feelings of Judge Alfred D. Barksdale who said: "It would seem that the best deterrent factors of punishment are certainty of punishment and promptness of punishment.\(^2\) As Barnes puts it, "An individual is


more seriously deterred by a sense of absolute certainty of relatively mild punishment than by the thought of possible loss of his life through a type of punishment in which there is less than one chance in ten that it will ever be applied to him. 3/

The laws under which offenders are sentenced may determine to a great measure the effectiveness of parole. Laws that permit release on parole when maximum adjustment and response to the correctional and educational program of the institution is achieved are most helpful in parole effectiveness.

The sentence which commits an individual to a penal institution is based on the concept that an individual must be removed from the community for a period of time. Parole is based on the concept that at the time of sentencing it is not possible to determine how long the individual shall be removed. In order for parole to be effective, there must be a wide latitude granted for consideration of parole while the individual is in the institution.

A true indeterminate sentence of from one day to life in all criminal cases, accompanied by a statute granting broad powers of release to the parole authority, is regarded in theory as the best sentencing structure. 4/ This requires a well-staffed diagnostic and treatment program at the institution with all of their case material available to the parole board. Very few states, if any, are ready for such type of legislation and so the ideal situation is still in the future.


Several modifications of the principle of indeterminate sentencing are in use where the offender is committed for the maximum time allowed by the state law for a particular offense with no minimum fixed. This means that all sentences would read from zero to the maximum number of years for a given offense. The parole concept is defeated to some extent when the law requires that a portion of the sentence, such as one-third or one-half be served before parole consideration. This is also the case when the maximum is so high that the requirements of serving one-fourth or one-fifth or one-half of the sentence before consideration delays the parole far beyond the time when the prospective parolee is ready for release. Another modification is where the minimum-maximum sentences are established and where the parole board has to work within that latitude. This also defeats the parole concept especially when the minimum is close to the maximum, such as a sentence of 7 to 10 years, or when the individual is considered ready for release long before the minimum sentence is served.

In Montana at the present time we are operating under a definite form of sentence. However, with the parole law as it is now making eligibility for parole consideration an automatic thing at one-fourth of the sentence less good time served, we are closer to the ideal than some of the indeterminate law states and especially those with minimum-maximum provisions.
The most effective parole law regarding eligibility and discretion as to the granting of parole is one by which the paroling authority is authorized to release an offender (except those sentenced to death) whenever in the Board's discretion it is in the best interests of society and the individual. This kind of statute best permits individualized treatment in the institution, release at a time when maximum response to the institutional program has been achieved, and affords protection to society by retaining for further custodial care those offenders who are not ready for release. The granting of parole under such a statute is done on an individualized basis after careful weighing of all positive and negative factors that may be involved and is predicated upon a prognosis of the individual's future adjustment in society. Parole should not be granted by arbitrary statutory provision such as a mandatory release on parole after serving a specified portion of the sentence. In some instances the rehabilitative aspect of the sentence can best be brought about by a suspended sentence, a period of probation, and no period of incarceration at all.

In order for the judge to decide on which method will be most likely to produce a change for the better, he needs to have as much information as possible concerning the accused. At the time the accused makes his plea, all the judge knows about him is that he is accused of breaking a law as charged in the information, and under our system of law the accused is presumed to be innocent until he either pleads guilty or is proven guilty. If sentencing is a prescription for remedial treatment
of the offender, or anything involving treatment, then it should be imperative that the judge know all he possibly can about the offender. Just as a physician cannot cure an ailment that he has failed to identify, neither can a judge pass a valid sentence on an offender whom he does not know and who comes before him without a presentence investigation.

The presentence investigation report was originally intended as a guide to the court in estimating probation risks but with increased knowledge of treatment methods it soon became useful in other areas. Its two main functions are the diagnostic process and the treatment process. In the diagnostic process we use the report mainly to find out what kind of an individual we have and it should also show us to some extent why he acts the way he does.

The report is also used in planning a method of treatment in an institution and also post release treatment on parole. Much of the information gained in a presentence investigation can best be obtained before an individual is incarcerated. After imprisonment the attitudes of the offender and his relatives are usually radically changed and therefore much of their information - other than easily verifiable material - is colored by their feelings. While it may not be entirely false, it is not nearly as reliable as that gained from the offender, his relatives and friends, before his incarceration. The real job is a portrayal of the offender's background and the interplay of his attitudes and actions with those of others, together with some analysis of his
motivations. All of this is later used to consciously direct and rechannel those urges and inclinations which run counter to the individual and social well-being and toward eliminating or improving those factors in the external situation which may have any part in causing the behavior. Briefly, a good presentence investigation report should include the following:

1. The present offense.
2. Status of co-defendants or accomplices.
4. Attitude of complainant.
5. Aggravating and mitigating circumstances.
6. Prior criminal history.
7. Family background.
8. Developmental history of defendant:
   a. Early development.
   b. School period.
   c. Adult history.
10. Residence (description). His attitude toward it.
11. Mental and physical health.
12. Character, habits and association.5/

In general the above outline has been in use for several years all over the country and is considered fairly complete.

Failure to conduct an adequate presentence investigation costs untold dollars and years of human misery and apprehension. In many cases the first-time offender especially could make an adequate adjustment to society.

According to Chief Justice Earl Warren in the fiscal year 1954, 25,733 defendants were convicted in the federal courts and of these 9,707, or 37.7 percent were treated by probation. He further states that about five-sixths of the probationers fulfill the terms of their probation. In the same year 1954, the average annual cost of federal probation treatment per person treated was $98.26 against that of imprisonment which was $1,243.19. This in itself is quite a saving to the federal government but in addition to this in the year 1954, 14,736 probationers reported total earnings for the year of $39,039,442, or an average earning of $2,649 per man. The savings in human values cannot very well be measured by any methods we now know. 6/

When reviewing the above statistics the question arises: What about those five-sixths who fulfilled the terms of their probation? Did they stay out of trouble in the succeeding years? Not too many scientific studies have been done so far on the matter of postprobation recidivism. In 1951 a study conducted by the University of Alabama (under the auspices of the Administrative Office of the U. S. Courts) found that 83.6 percent of persons formerly on federal probation in the Northern District of

Alabama were free of subsequent convictions of any kind during a median period of 7½ years. Dr. Ralph W. England of the University of Pennsylvania recently completed a similar study on 500 former probationers in Eastern Pennsylvania and found that 82.3 percent had no subsequent convictions.7/

On the basis of these factors we shall have to conclude that federal probation in the areas mentioned is successful since well over 80 percent completed the terms of their probations and over 80 percent were free of subsequent convictions for over 5 years after the termination of their probation period. Why? Because the judges in the jurisdictions involved played a good "hunch" on most of these cases? Hardly, but rather because of the universal practice in the federal system of an adequate presentence investigation.

If the judge in a state with a definite sentence law, after considering the total situation, decides on a prison sentence, he is again faced with the problem of how long the sentence shall be. If from the information he has at hand it seems that the possibilities of reformation are good, then a short sentence is in order. On the other hand, if the defendant appears to be of such character that reformation is doubtful, it would seem that the longer he is kept out of circulation the better for all concerned, including the defendant. In a true indeterminate sentence situation, the judge would not be too concerned with this but only with the guilt or innocence of the accused party.

There are certain types of offenders who with few exceptions are almost always committed to an institution because of the nature of their offense. The violation of the Selective Service Act is a good example. Enforcement of the Selective Service laws would be seriously hampered if the draft evader could detour out of the military service by way of courts and probation.

In most penal institutions which have any type of rehabilitative program at all, it takes at least twelve months to two years to take full advantage of any of the various training program offered. A former inmate of San Quentin Prison and Montana State Prison once told this writer that many of the inmates at San Quentin hesitated to enroll in any of the trade courses such as automotive mechanics, electricity, plumbing and carpentry because it was their understanding that once a man enrolled he had to complete the required number of hours of training. They felt that this would automatically exclude them from early parole consideration. This idea was especially prevalent with the men serving short sentences such as one- and two-year terms. Obviously this question of length of time in the institution is entirely removed from the judge in a true indeterminate sentence law situation. The paroling authority, with all the information of the classification and presentence reports at their disposal, can more accurately decide how long a given inmate shall be detained.

We know from experience that there is a certain percentage of offenders for whom nothing can be done in the treatment aspect or any
other aspect. Luckily that percentage is small, probably under 10 percent. We say probably because we have no method to really check this factor - untreatability. Consider what happens to a prisoner over a period of years. For about two to two-and-a-half years constructive work can be done with him. After that he receives little more than custody, and custody without treatment, in the main, is a destructive experience. With each succeeding year he becomes less and less a good prospect for return to society.

Robert M. Lindner has referred to "the regressive effect of detention and the peculiar liability of imprisonment to move back the clock and to foster a slow but progressive return to the psychic stages of childhood and infancy. Inexorably, touched off by the total dependency of the confined individual, there comes about a gradual decay of those elements in the personality which have won through to maturity and most detained persons tend to move back psychologically upon their own timelines, abandoning one by one whatever independent qualities and characteristics accompanied them through the prison gates. Like some vampirous creature, prison literally drains its wards of all that makes for maturity. Fed, clothed, housed, robbed of all independence of thought and action, told what to do and where to go, all vestiges of adulthood in the individual, in most cases, succumb to the disintegrative process."

This is especially true for the offenders who were to some extent immature and unstable to start with.

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Here again the value of the presentence investigation is evident in that it assists the judge in choosing the method of treatment—institutional or probation—which would be appropriate to the needs of the individual. In other words, the court can now individualize the sentence. This implies quite a lot. First, it differentiates the offender in personality, character, sociocultural background, motivation for the crime, and his potentialities for reform or recidivism. Secondly, it helps to determine which among a range of corrective, psychiatric, and social measures is best adapted to solve the offender's problems in such a way as to materially reduce the probability of his becoming a repeater. There would be much less disparity in sentencing if all the judges in a given jurisdiction required presentence reports and used them for the purpose for which they were intended.

The American Law Institute and the Section of Criminal Law of the American Bar Association have recommended as one way to reduce disparity in sentences that intermediate appellate courts be given jurisdiction to review and increase or reduce sentences. This proposal is open to criticism in that it creates legal machinery that is quite removed from the original circumstances of the crime and also tends to infringe on the authority of the local court, thereby weakening it.

The National Probation and Parole Association has recommended the enactment of indeterminate sentence laws in all jurisdictions. In this type of situation the court merely passes on the guilt or innocence of the accused and leaves to the parole board the determination of the exact amount of time to be served. The problem is being studied at the
national level by the Committee on Criminal Justice of the American Bar Association and also by the new federal Advisory Correction Council. There are considerable variations in sentencing between states. In Montana the theft of anything over the value of $50 constitutes a felony. In California theft of articles with a value over $200 constitutes a felony. In either case, theft is still theft; it is merely a matter of definition as to what shall be petty theft or larceny and what constitutes grand theft or larceny.

It is sometimes difficult to see the rationale behind the prosecution, for example, of a $60 grand larceny case over against a $10 fraudulent check case. However, it would appear that the fraudulent check cases are prosecuted more vigorously because of the fact that this sort of thing, in addition to being a form of larceny also attacks one of our most widespread systems of exchange, namely check writing. Here again, we see retaliation of society against the offender because he has threatened the established order, in this case a very useful part of that order.

Mr. Sol Rubin in an article on "Long Prison Terms and the Form of Sentence," gives a very convincing argument in favor of a judge-fixed maximum, no minimum term, with early parole eligibility so that a parole authority will have a substantial latitude to work in. (This is the type of sentence we have operating in Montana.) Mr. Rubin says that "under the form of indeterminate sentence in which commitment is

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fixed automatically at the maximum provided by law, the judge exercises no discretion whatsoever. By contrast, the judge who fixes a definite sentence is serving a clear-cut, important and proper purpose. He does not control parole because parole eligibility is governed by statute. Instead he determines the outside limits of imprisonment, keeping in mind not only the constitutional protection of the prisoner against excessive punishment, but also his treatment prognosis. The presentence investigation is a tool of the judge in making such a decision. By exercising his discretion, rather than by abandoning or compromising it, as in the forms of indeterminate commitment, the judge is building toward equality of sentencing as well as contributing toward a plan of rehabilitation.10/

Taking an alternate approach, Mr. Milton G. Rector in an article on sentencing and correction upholds the indeterminate sentence and says, in effect, that it is often misused in the following manner:

"1. The court's misinterpretation or misuse of the indeterminate sentence.

2. The parole board's misunderstanding of the indeterminate sentence or its lack of initiative in using it to determine release time.

3. Restrictions and exclusions of the indeterminate sentence statutes themselves.

4. The discretion the courts within a state are allowed in choosing between the indeterminate and definite sentence forms and the criteria they use in exercising such discretion."11/

10/ Ibid., p. 350.
Mr. Rector says that the two forms of sentence (indeterminate and definite) are actually quite similar in practice and that the main issue is to determine who shall fix the maximum sentence and what limit, if any, should be set for the maximum. In either type of sentence, a well written parole law and a properly functioning parole authority can resolve the differences. It seems quite obvious that a well-staffed classification unit in any correctional institution would be in a much better position to know when a given offender has received the maximum benefit from treatment and is ready for return to society than the sentencing judge. Even where there is a part-time parole board, as there is in many states, they can make a fair decision in most cases when they have the reports of a good classification unit on which to base their decision.

There is one valuable tool used in the classification units of some of the more modern correctional institutions that bears promise of being an essential part of the whole treatment process. I refer to the increasing use of predictive tables. The various methods of treatment for offenders, such as probation, classification and parole, all depend for their efficiency on the reasonable predictability of human behavior in given circumstances. Yet all these methods were used before any scientific method of determining predictability had been developed. Several researchers have done considerable work in this field, most notable among them being Drs. Sheldon and Eleanor Glueck, and Dr. Lloyd Ohlin.
The Gluecks in their first study of this type, *500 Criminal Careers*, developed a table from their 500 cases on possibilities of recidivism based on certain biologic and social factors, which could be used by judges in their deliberations before sentencing. After much experimenting with some 50 different biologic and social factors, they finally chose five items:

1. Seriousness and frequency of prereformatory 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 reformatory.
5. Mental abnormality.

These factors were weighted and scored on Success, Partial failure, Total failure:

**Success** - Meaning no police or court record except traffic violations.

**Partial failure** - Conviction on two minor offenses or arrest for not more than three minor offenses not followed by conviction.

**Total failure** - Arrests for three or more serious offenses not followed by conviction, or more than three arrests for minor offenses (except drunkenness), or conviction of one or more serious crimes.

The test was so arranged that on any given case the degree of probable success or failure would be clearly shown as a ratio; for example, 7 out of 10 chances for success or failure, or 2 out of 10, etc.

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Since the construction of this first predictive table, the Gluecks have refined and developed this and other types of predictive tests covering a wide range of ages and social backgrounds. Notable among these is the Social Prediction Table developed in their matching study on 500 delinquent and 500 non-delinquent boys reported in Unraveling Juvenile Delinquency. They have shown that the prediction tables, while still in a developing stage, can be a very useful tool to judges and classification units in institutions.

Prediction tables as they are now could never and should never be used by judges or parole boards as the final word or magic formula but rather in conjunction with all other information at hand on a given offender and only as an aid in making a decision. The Illinois Prison System has used predictive tables in parole release procedure over a period of 20 years and have been evaluating and revising their tables quite frequently over this time span. Their work was done almost entirely by Dr. Lloyd Ohlin while he was Research Sociologist for the Illinois Division of Correction. His studies have shown that predictive tables can be very useful to parole boards.

CONCLUSIONS

Although there has been much progress in recent years on sentencing procedures, there is still room for improvement. The offender must be studied in his total environment. All the forces that he has

13/ Glueck, Sheldon and Eleanor, Unraveling Juvenile Delinquency, (New York: Commonwealth Fund, 1950), Chapt. XX.
interacted with in the past and present, with a reasonable prediction of this future interaction, must be taken into consideration for their possible effect on the individual. This progress can come only by the combined efforts of researchers and practitioners in the social sciences.

The implications of improper sentencing procedures seem evident. Too often men are sent to prison who could have been successfully treated or re-socialized by means of probation treatment. More widespread use of presentence reports is needed. The states who do not have a true indeterminate sentence law are in many cases keeping men imprisoned long after they are ready for return to society. This increases the probability of recidivism and, to some extent, defeats the parole concept.
CHAPTER III

SOME OF THE DIFFERENT CAUSATION THEORIES OF CRIME - PAST AND PRESENT

In order to properly understand the different approaches to the causes of crime we will go back into some ancient history. In the western world we find many of our ideas coming from the Hebrew-Christian tradition which teaches that the basis of all of man's trouble was sin or transgression against the laws of his God. This sin or transgression was attributed to the work of a spirit demon (fallen angel) or minor God who was always roaming around trying to get human beings to act contrary to the law. However, the one who submitted to temptation was considered responsible for his acts. A whole list of offenses and penalties were codified in what is commonly called the Mosaic laws. At a somewhat earlier period of time the Babylonians formulated a set of laws known as the code of Hammurabi which in many instances was quite similar to parts of the Mosaic law. The ancients believed that man had the power within himself to choose between right and wrong; in other words, he had "free will" even though it might be hampered by superstition and background.

Just where does this "free will" come into play in our present day and age? To read some of the current writings one would almost make the conclusion that man could not possibly act of his own free will because after all he is conditioned by his culture, his family, peer group, physical environment, etc. Every thought, act, motion, is

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flavored by the various stimuli in the person's background which all act to force him to think, talk, act in a given manner - an automaton. Obviously, there is freedom only within limits and these limits are somewhat decided by one's heredity, social pressures, opportunities, etc. Yet this does not nullify one's ability to govern his behavior by making a choice of two or more possibilities and choosing one which is preferred according to the major interest of the individual concerned.

In Professor Caldwell's chapter on causation, he claims that it was through the Christian influence that the idea of responsibility began to prevail in the domain of criminal law. The idea of an individual's responsibility is well set forth long before the Christian era in the Mosaic laws. Professor Caldwell says that modern theories regarding the causes of crime may be divided into three periods:

(1) The period of particularistic theories which attributed most if not all crimes to a single cause or a few simple factors. This period began in the early nineteenth century and was closed by the studies of William Healy\(^1\) in 1915 with principle of multiple causation.

(2) The period of firsthand research and segmented studies. This period is covered by the last of Dr. Healy's studies and many of the Gluecks studies.

(3) The third period is just beginning, the period of reformation of ideas as to the causes of criminal behavior. Today some theories

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\(^1\) Healy, William and Bronner, Augusta, *New Light on Delinquency and Its Treatment*, (New Haven: Yale University Press) 1936, Chapters V-VI Multiple Causation.
may be labelled in terms of the emphasis of their approach, such as psychiatric, sociological, geographical or biological, although most all researchers have recognized that a one-sided approach is impractical and unscientific.2/

We do not mean to imply that any criminal behavior is the result of any one particular factor or even a given set of factors but to use Dr. Sheldon Glueck's analogy to fire prevention: "most of the places where inflammables are stored will never burn, and in many instances an intervening influence between the inflammables and the conflagration is necessary. But where combustibles are present, the danger of fire is greatly increased. The implication for crime preventive efforts seems clear. The more 'inflammables' (such as poverty, broken and distorted home life, badly occupied leisure time, culture conflict, and the like) that can be removed from the environment of childhood and youth, the less possibility is there of criminalistic conflagration. The exact manner of the relationship may not necessarily be either inevitable or direct, but merely one that is several steps removed from the factor which is the direct source of criminalistic behavior. But such facts, while rendering crime preventive efforts more difficult and wasteful than they would be if we knew more about causation, do not make them hopeless."2/

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Dr. Glueck has here described what we might call sufficient causes for crime and delinquent behavior. However we need to go a little farther and get to the efficient causes, that is, we need to discover a relationship of and in the related factors which invariably results in crime and delinquency. Otherwise we are merely using a mass statistical type approach which says, in effect, that given so many cases of people with environmental handicaps, i.e., poor housing, broken homes, etc., we will have so and so many criminals by the time they reach a certain age. Perhaps we will never get a framework or design of the relationship of factors which will always result in crime, but at least we will have gone a little farther on the way to getting near the root of the matter.

The late Professor Sutherland evolved what would seem to be an efficient causal theory and labeled it "Differential Association." In effect, he says that criminal behavior is learned in the same manner as non-criminal behavior is learned. It is learned through interaction with others within intimate, personal groups. The learning includes techniques of crime, motives, drives, rationalizations and attitudes. This concept, however, seems to imply that criminal behavior operates somewhat in a closed system. Yet upon further examination such things as opportunity for crime, intensity of need, alternative behavior, and susceptibility to crime can still fit within its framework. "Association" as he uses it would mean something more than mere contact - a sort of

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differential learning, thinking, identification process that is in continual operation. The social interactions which affect a person's thinking would then be seen as his subjective conceptions of other people, not merely the extent of his contact with them. No doubt Professor Sutherland's theory will be expanded and revised as time goes on, but it seems to be a long step in the right direction.

We are not dealing with the basic elements, as the chemist is, and we cannot say as he can that a given set of conditions acting on certain elements will always produce the same effect. Yet we can still follow the "if-then" type of reasoning in our search. We can say that if certain conditions prevail in a given set or sets of relationships, then certain conditions will usually follow, providing that our original supposition is correct. We will have to prove its truth or falsity by careful, scientific evaluation. Different times produce different people and different types of situations which may be more conducive to crime now than was the case 10 years ago. Technological advances bring about a greater conflict of cultures.

There are four main areas which need further investigation in the search for related causative factors. These are (1) the psychological, (2) the constitutional, (3) the cultural and sub-cultural, and (4) the social and situational.

Psychological. Research in this area should show why individuals with certain types of psychological traits or syndromes are more vulnerable to criminal behavior.
Constitutional. This has to do with such information as maturation levels in neuro-muscular coordination and movement, speech patterns, and postural differences in the early formative years. Also, and most important, just what effect these things have on the behavioral pattern under differing social and cultural conditions.

Cultural and Sub-cultural. This category has to do with that complex whole which includes knowledge, beliefs, art, morals and value systems which different groups live by. The problem of culture conflict as provocative of certain types of crime comes into focus here and the way in which value systems enter into the training and socializing of children and the resulting strain brought about by our highly mobile population.

Social and Situational. All groups, whether family or larger groups, have a certain pattern or structure and it is through this structure that the groups tend to satisfy the needs imposed by their cultures. The structure of a given family may be such that all control of its activities lies with the wife, which runs counter to the dictates of its culture. The way the resultant strain is alleviated depends on a variety of things and here is where some good research may bring to light some significant related factors in criminal behavior. In line with this is the situational factor, that is, the immediate presenting situation, the provocative circumstance, which corrals the vulnerable into the criminal act by the mere fact of his being in the right place at the right time.5/

To better understand what type of research we mean, let us elaborate further on the first area, the psychological. Dr. Edward M. Litin, a psychiatrist at the Mayo Clinic in Rochester, Minnesota, working with Dr. Adelaide Johnson and others, formulated some ideas that are worthy of mention here since they have a direct bearing on crime causation. Their views are based on some fifteen years' study, working with delinquents and their parents. The focus of their study was directed on the parents instead of directly on the delinquent. At the outset a startling fact emerged, which is that one or both parents are unconsciously fostering and permitting continuation of delinquent behavior. We are all familiar with the fact that parents do achieve gratification from children's good behavior and their successes. Now there are parents who unconsciously enjoy satisfaction from delinquent behavior on the part of their children. With this type of parent, the anti-social impulses are unconscious but poorly inhibited and close to breaking through into consciousness. These impulses break out, sadly enough, through fostering such behavior in a child. Dr. Litin and associates maintain that a large share of individual anti-social behavior today stems from this unwitting sanction, or unconscious encouragement of such anti-social behavior by one or both parents, so that the parent achieves through the child vicarious gratification of his own poorly integrated, forbidden impulses. Consciously, most of

these parents are deeply concerned at the child's misguided behavior but have no idea that they are actually promoting it.

Since we are talking about consciousness and unconsciousness, let us consider now the individual conscience, that part of us that knows what society regards as right and wrong. How do we get our conscience? A child's conscience is not inherited but it is developed, especially during the first six years of life. It is developed through imitation in great detail of the total behavior of the parents. This imitation embraces the conscious and unconscious operations of the parents. To an equal extent, conscience developed from the parents conscious and unconscious image of the child and from their concept and hopes for the child is expressed to the child. Briefly, conscience occurs in two ways - not only what the child sees and imitates as far as the parents are concerned, but also from what he perceives, both consciously and unconsciously, of the image that the parent has of him as he is growing up. Psychiatrists as well as parents have erred in assuming that prohibitions in all forms lead to too much guilt and thus to various neuroses. Prohibitions in themselves do not lead to unhealthy guilt, rather they are an important aspect of a child's security. So far as prevention of neurosis is concerned the prohibition of anti-social activity merely requires the presence of the parents sufficiently mature to manage the resentment expressed by the child over the limit setting that society demands. For example: When a small child runs out into the street the mother has no guilt or misgivings about giving the child a good swift
swat on the "seat of learning" and telling him, "you just don't go out in the street any more until you are bigger," and the event is all finished and cleared up with, and that's that. On the other hand, when a small child goes into mother's purse or starts playing with matches, for example, mother immediately begins to think, "will I create a neurosis in this child, will I make the child neurotic if I tell him he must not do that?" So instead, mother compromises and says, "I don't think you should do that and perhaps it would be best if you didn't play with matches, or take money from mother's purse," instead of being forthright and very unequivocal about the situation, laying down the law - "this is it" - with no alternative. In certain situations that can be done but in other situations it cannot. Now psychiatrists, as we said before, are to blame to a large extent for such attitudes because the original doctrines in the explanation of the development of neurosis and so on had as one of its main points the establishment of guilt in children by prohibiting too many experiences and too much limit setting by the parents. Consequently, the pendulum swung too far in the other direction where there were no prohibitions or limits as far as the child was concerned and there was always quibbling and equivocal explanations of what is right and what is wrong, instead of the old either/or proposition which should be applied in many situations where it is not today.

It became increasingly clear from Dr. Litin's study that many parents, particularly those with poorly integrated anti-social impulses
of their own, have become uneasy about setting limits even concerning matters which are specifically destructive to society such as stealing, over-sexuality, or even murderous intent. Yet it is evident that certain specific acts such as stealing, setting fires, murders, and sexual destructiveness cannot be tolerated in our society. They must be prohibited completely and definitely. An act of specific anti-social behavior should arouse guilt in everyone and the guilt alone is not unhealthy. Prohibitions against anti-social activity may provoke anger in a child, but such a child is not likely to become neurotic if he can express this anger in a legitimate, socially acceptable way. For instance, verbally is as good a way as any in expressing some anger instead of having to swallow it and repress it or instead, unfortunately, of having to act it out in an anti-social manner. Boiled down, all of this means that these parents, through certain behavior, foster conscience defects correlated with hidden defects in the parents' own conscience.

Dr. Litin says that there is rarely a generalized weakness of the conscience but rather a lack of conscience in circumscribed areas of behavior. For instance, a child may be entirely dependable about regular school attendance or honesty at work but engage in petty stealing or serious sexual acting out, or fire setting. This depends upon the specific area of weakness in the parents' conscience. One might ask, (1) How do you explain that only one child in a family of 3, 4 or 5 children may steal, whereas the others don't? (2) If the parents do initiate and foster such a defect in conscience, just how do they do it with a specific child, and how is it communicated to the child?
Let us take up the first question: How do you explain that only one child out of a family steals whereas the other children are completely honest? They all have the same parents, they all live in the same home, eat the same food, for all intents and purposes the environment looks the same for them. (Dr. Litin's study was done on parents and children of middle class families but, no doubt, his findings would be valid in any class structure.) It's true they have the same parents, they have the same environment, but parental attitudes differ toward each child depending on multiple influences in the parents' own lives. Some variables that we might mention are the sex of the child—whether it is a boy or girl—the position of the girl or the boy in the list of children, feelings of the parent toward certain of his or her brothers, sisters or parents, and feelings in the marriage at the time of the pregnancy of each individual child. The tragic fact remains that one child usually is selected unconsciously as the scapegoat to live out the loophole in the parents' own conscience with their unconscious drive toward anti-social behavior. It may be that there is only one scapegoat child in an entire family but again we have observed that one child steals, another may be truant from school, and a third one enjoys or engages in very destructive behavior. Careful study elaborates how each child is selected to live out a particular need in one or both parents.

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2/ Ibid.
"Observations in such families become highly complex patterns of multiple formulae determined by the parents' pathological needs from their own past experience. All too common an example is the young child around the age of puberty who lies continuously. How this comes about is often, at times, not difficult to decipher. Every little child must learn what the truth is. This requires a kindly but very consistent type of training. A mother recently said of her 12 year old son, George.

'He has always been a liar, the truth is just not in him. Beatings do no good. I tell his father that this child is a born liar just like his father's brother. I try to shame him but it does not work. Since he was four years old I have shamed him and told him he was not like his brothers and I warned him that I did not know what would become of him.' This mother could easily see that her other children needed training in what the truth was but with George she almost automatically assumed that when he was four years of age he could be trained not at all like her other children.2/

Careful study of the mother revealed that from George's birth the mother had identified George with his father's brother, whose name was also George, whom she thoroughly disliked as an unreliable liar and braggart. Her own father was a notorious liar with whom in part she also unconsciously identified George. This mother had not wanted the child when she knew she was pregnant, being at that time quite unhappy in her marriage with her husband. So here is a mother who unconsciously identified with her lying father, hostile and unhappy, - selecting as
the target her son George. The choice of misbehavior was lying, fostered by frequent references to the unreliable Uncle George and statements to young George that the mother had no confidence in her ability to engender respect for the truth in him. The child then sees that his mother's image of him for the future is one of falseness and unreliability. In other words, children will act out what they are expected to act out oftentimes.\(^2\)

Anti-social behavior is this same type of situation. If the mother has an image and expectation that a child is going to act out in such a manner, the child almost automatically and invariably will do so and fulfill this image that the parents have of him.

Carry this idea over into adult life, especially after the person has become involved in crime. The general public, and especially police agencies, have an image and expectation of the criminal and this concept is transmitted to him in many pointed ways. For example, ex-felon registration laws and ordinances which are in effect in many states and cities, the frequent roundup, especially in larger metropolitan areas, of all known ex-felons for questioning, etc. It is no wonder that attempts at re-socialization and retraining are frequently met with failure and disappointment.

We could show that criminal behavior is frequently associated with social and personal handicaps such as poor housing, overcrowdedness, broken homes and demoralized family life, alcoholism, feeblemindedness, 

\(^2\) Ibid.
and many other conditions. Yet there are many people who have had this same type of background who do not commit crimes. There are also people who have not had this type of background and they still commit crimes. Therefore, a mere collection of undesirable features in a person's background does not necessarily label these features as being causal factors in crime. As Professor Bloch states, "A child will not necessarily become delinquent simply because he is exposed to certain environmental conditions which are considered bad or demoralizing. He will become delinquent only if he is motivated to become delinquent. The crucial genotype in delinquency research lies in the personal-social matrix of motivation and this is the very problem we tend to neglect."10/

As stated before, the relationship of these factors is more important to consider, the relationship in time and place. For example, take the broken home situation: the absence of the father through divorce, desertion, incarceration. If this occurs at the time when a boy is striving to identify himself with a masculine figure and the only masculine figure he knows is suddenly removed from the scene, the effect is going to be somewhat damaging, especially when the father in such cases is the target for all kinds of verbal abuse from the mother and perhaps other family members. If the breakup occurs at a later or an earlier period in the boy's life it may not have nearly as much effect; it all depends on what developmental stage the boy is in at the time of the breakup.

The Gluecks in their study on *Unraveling Juvenile Delinquency* found that in comparing their 500 delinquents with the 500 non-delinquents no fewer than six out of every ten homes of delinquents had been broken by death, separation, divorce, desertion, or prolonged absence of one of the parents. They state that "It is probable that the first definite break in the organic structure of the family is crucial because it is likely to deal the greatest emotional blow to a child's conception of the solidarity and reliability of the parental team and to disrupt his general sense of security as well as of family stability. In some cases a break in the family pattern may seriously distort the process of emotional intellectual identification of a boy with his father as a hero ideal."\(^{11}\)

They further show that twice as many of the non-delinquents as delinquents had a warm, affectionate relationship with their fathers. Also, the extent to which the father of a boy was acceptable to him as a figure for identification is revealed in the finding that fewer than two out of ten of the delinquents, as contrasted with over half of the non-delinquents, considered their father to be the kind of man that he, himself, would like to be and had respect for his father's vocational and social standing as well as some sort of common understanding with him. Psychiatrists are of the opinion that this process of identification of the boy with his father, whom he tries to emulate one way or another, is very significant in the development of his personality and character.

We think this matter of identification and close relationship can be carried out to a larger scope to include teacher, older brother, uncles, priest, pastor, rabbi, etc. We see here, again, that this matter of identification also overlaps into the security factor in the sense that if the boy can accept the role and status of his hero ideal he does so partly because he feels that he will then be secure in his standing with his own peer group. Developmental factors which are generally considered a handicap to full personality development can be labeled and catalogued for certain individuals, not to attempt to explain their criminal behavior, but rather to show what kind of individual we have to deal with and to give us an idea as to what areas in his makeup may need strengthening through further education, vocational training or psychotherapy.

While the foregoing illustration of possible psychological causation was on an individual basis, there are similar things occurring on the group level. In certain areas of our larger cities, transitional areas, slums, etc., delinquent groups are a significant part of the social organization. Many of the people in these areas, regardless of their personal morality, have a strong group sense of rejection by the larger and wealthier society. Feelings of frustration, resentment, and defeat are developed and group attitudes condoning hostility, rebellion and destructiveness came into being. In such surroundings, a child may grow to maturity having the conventional emphasis on honesty, respect for property, etc., while at the same time he hears and sees bitterness, criticism, and hatred of the larger society which appears always to be
in a better position. It is not long before strong group associations are formed and, in a general way, delinquent attitudes are learned first from the group and soon from specific individuals in the group. A lot of things interact in this process; differential association seems to play a strong part.
CHAPTER IV

A REPRESENTATIVE SAMPLE OF
THE DEVELOPMENTAL INFLUENCES OF 100 INMATES

To obtain factual material, we went to the Montana State Prison where we could get the material on as many individual cases as we chose to use. The statistical material used herein, unless otherwise stated, was gathered through personal interview by the writer over a period of six months for 100 inmates of the Montana State Prison. The figure 100 was arbitrarily chosen because we felt it would be a representative sample in view of the fact that it represents roughly one-sixth of the prison population. The cases studied include every type of crime, although the percentage of murder cases is small because the information was gathered from these inmates for progress reports in connection with their first parole hearing. At the time this information was obtained, about 90 percent of the prison population were eligible for a parole hearing due to the 1955 revisions in the law. We will present first a description of the factors and conditions which have occurred often enough in the study to be of some significance.

In the process of gathering this information from the prison inmates, a social information card was formulated and used throughout the study. A copy of the information requested on such card is shown in the Illustration 1 which follows. Approximately 60 inmates were interviewed by the writer each month. The method used to select the cases for our study was as follows: Sixty inmate records were set on the desk and we inserted a blank social information card into every third record file without seeing whose file it was. In the process of interviewing the inmates
for the parole hearing, we completed each special social information card as it appeared.

ILLUSTRATION 1

Date_________________  Prison Number_________________

CRIMINAL HISTORY

Present offense______________________________________

Plea_________________  Jury trial: Yes_____ No___________

Sentence_________________  Number of felonies__________

Repetition of type of felony_______  No. times_______  Kind_______

Time span between convictions_________________________

Age at time of first felony conviction_____________________

SOCIAL INFORMATION

Present age______  Education________  Birthplace____________

Vocation_________________  Nationality_______________

Marital status_____________  Religion___________  Siblings_______

Parents:  Living or dead_________  Still married_______  Separated____

Divorced_________  Occupation of father_____________

Childhood environment:  Reared in city______  town_____  country_____

Reared by parents_____________  or others_____________

Age of subject at separation from parents___________________

Institutional record__________________________

Armed Services record________________________

Medical history______________________________

Alcohol problem_____________________________

Parole record_________________  Violations_____________

Average earnings on parole_____________________

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An appropriate point to begin with would be the origin or birthplace of each of these inmates. It was found that 27 were born in Montana, 19 of these from points east of the Continental Divide, 8 from points west of the Divide; 73 originated in other states. There were no inmates from Nevada, Utah, Colorado, Arizona, New Mexico, Vermont, Connecticut, New Jersey, Rhode Island, Delaware, Virginia, South Carolina or Florida.

Forty-one of the group studied were first-time offenders; 59 were multiple offenders; 96 pled guilty and 4 stood trial. Average sentence length was 3 years, 9 months; 54 were single men, 24 were married, 22 were divorced or separated.

We have further divided these cases into types of offenses and for the purpose of this study the following classification of types will be used: Aggressive types and Passive types:

In the Aggressive type of offenses are included the following:

- Robbery - any form or degree
- Assault - any form or degree
- Murder - any form or degree
- Manslaughter - any form or degree
- Escape from custody
- Sex offenses - Rape, any type
  - Lewd and lascivious acts
  - Infamous crime against nature
  - Sodomy
The Passive types include the following:

- Larceny – any form or degree whether so named or not
- Grand and Petit larceny
- Burglary, any degree
- Receiving stolen property
- Auto theft

**Forgery** – Fictitious checks
- Forgery
- Obtaining money by false pretenses
- Embezzlement
- Fraud

It may be argued that certain of the sex crimes, namely the perversions, may also be classed as a passive type, however in almost all cases of sex perversions the aggressor in the act is the one who is convicted. For our purposes, then, we have two main types of offenses: aggressive and passive, and from these two, four sub-types: larceny, forgery, crime against the person, and sex crimes. There were 73 convicted of passive type crimes, 51 larceny, 22 forgery. There were 27 convicted of aggressive type crimes, 18 crimes against the person, 9 sex crimes.

The item of age at time of present offense was divided into 5-year spans, going from juveniles to 20 years old or less, and so on, as shown in the following Table I.
<table>
<thead>
<tr>
<th>Age</th>
<th>Number</th>
<th>Marital Status</th>
<th>Type of Crime</th>
</tr>
</thead>
<tbody>
<tr>
<td>20</td>
<td>7</td>
<td>6 single</td>
<td>1 Check charges</td>
</tr>
<tr>
<td></td>
<td></td>
<td>1 divorced</td>
<td>3 Larceny</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>3 Crime against the person</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>1 Sex crime</td>
</tr>
<tr>
<td>21 to 25</td>
<td>28</td>
<td>18 single</td>
<td>4 Check charges</td>
</tr>
<tr>
<td></td>
<td></td>
<td>4 divorced</td>
<td>15 Larceny</td>
</tr>
<tr>
<td></td>
<td></td>
<td>6 married</td>
<td>5 Crime against the person</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>4 Sex crime</td>
</tr>
<tr>
<td>26 to 30</td>
<td>16</td>
<td>14 single</td>
<td>5 Checks</td>
</tr>
<tr>
<td></td>
<td></td>
<td>2 divorced</td>
<td>9 Larceny</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>2 Crime against the person</td>
</tr>
<tr>
<td>31 to 35</td>
<td>13</td>
<td>3 single</td>
<td>8 Larceny</td>
</tr>
<tr>
<td></td>
<td></td>
<td>5 married</td>
<td>5 Crime against the person</td>
</tr>
<tr>
<td></td>
<td></td>
<td>5 divorced</td>
<td></td>
</tr>
<tr>
<td>36 to 40</td>
<td>14</td>
<td>2 single</td>
<td>8 Checks</td>
</tr>
<tr>
<td></td>
<td></td>
<td>7 married</td>
<td>3 Larceny</td>
</tr>
<tr>
<td></td>
<td></td>
<td>5 divorced</td>
<td>2 Crime against the person</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>1 Sex crime</td>
</tr>
<tr>
<td>41 to 45</td>
<td>10</td>
<td>7 single</td>
<td>1 Checks</td>
</tr>
<tr>
<td></td>
<td></td>
<td>2 married</td>
<td>7 Larceny</td>
</tr>
<tr>
<td></td>
<td></td>
<td>1 divorced</td>
<td>2 Sex crime</td>
</tr>
<tr>
<td>46 to 50</td>
<td>6</td>
<td>1 single</td>
<td>5 Larceny</td>
</tr>
<tr>
<td></td>
<td></td>
<td>2 married</td>
<td>1 Crime against the person</td>
</tr>
<tr>
<td></td>
<td></td>
<td>3 divorced</td>
<td></td>
</tr>
<tr>
<td>Over 50</td>
<td>6</td>
<td>3 single</td>
<td>3 Checks</td>
</tr>
<tr>
<td></td>
<td></td>
<td>2 married</td>
<td>1 Crime against the person</td>
</tr>
<tr>
<td></td>
<td></td>
<td>1 divorced</td>
<td>1 Larceny</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>1 Sex crime</td>
</tr>
</tbody>
</table>
The item "Education" was divided into two-year spans, starting at 6 years or less, and so on as follows:

<table>
<thead>
<tr>
<th>No. Years Schooling</th>
<th>Number of Offenders</th>
<th>Type of Crime</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 to 6</td>
<td>14</td>
<td>5 Check charges</td>
</tr>
<tr>
<td></td>
<td></td>
<td>7 Larceny</td>
</tr>
<tr>
<td></td>
<td></td>
<td>2 Crime against the person</td>
</tr>
<tr>
<td>7 to 8</td>
<td>30</td>
<td>4 Check charges</td>
</tr>
<tr>
<td></td>
<td></td>
<td>15 Larceny</td>
</tr>
<tr>
<td></td>
<td></td>
<td>6 Crime against the person</td>
</tr>
<tr>
<td></td>
<td></td>
<td>4 Sex crime</td>
</tr>
<tr>
<td>9 to 10</td>
<td>27</td>
<td>6 Check charges</td>
</tr>
<tr>
<td></td>
<td></td>
<td>14 Larceny</td>
</tr>
<tr>
<td></td>
<td></td>
<td>3 Crime against the person</td>
</tr>
<tr>
<td></td>
<td></td>
<td>4 Sex crime</td>
</tr>
<tr>
<td>11 to 12</td>
<td>24</td>
<td>5 Check charges</td>
</tr>
<tr>
<td></td>
<td></td>
<td>14 Larceny</td>
</tr>
<tr>
<td></td>
<td></td>
<td>4 Crime against the person</td>
</tr>
<tr>
<td></td>
<td></td>
<td>1 Sex crime</td>
</tr>
<tr>
<td>13 to 14</td>
<td>5</td>
<td>2 Checks</td>
</tr>
<tr>
<td></td>
<td></td>
<td>1 Larceny</td>
</tr>
<tr>
<td></td>
<td></td>
<td>2 Crime against the person</td>
</tr>
</tbody>
</table>

In the social information card we had the items "Parents living or dead," "Still married, Separated, Divorced, Reared by parents or others," and also "Age at separation from parents." We analyzed all these factors in each case in order to classify a broken home situation before the individual had reached the age of 16 years. Forty-six of the cases came from a background which we defined as a broken home. Of these forty-six, 35 were convicted of passive types of crime, 11 for aggressive
types of which 5 were sex crimes. Also, of the forty-six from broken homes, 23 went into the Armed Services. Ten adjusted to Service life, 13 did not; adjustment being, for our purposes, whether or not the man received an honorable discharge, or under honorable conditions. For the group as a whole, 59 had Service records and of these 30 had honorable discharges, 35 had other than honorable. The discrepancy in numbers is because 6 of the men had served in different branches of the Services and had two different types of discharges.

In comparing the occupational data of the study group with that of their fathers, the U. S. Employment Service's Dictionary of Occupational Titles was consulted for job classifications and because their system involved 7 different job families, we felt this was too large for our purposes and so combined some of the related ones such as agriculture and forestry, etc. We have settled on four main categories or job families and the following table shows the relation of the study group on occupations as against that of their fathers.

<table>
<thead>
<tr>
<th>Occupation</th>
<th>Fathers</th>
<th>Study Group</th>
</tr>
</thead>
<tbody>
<tr>
<td>Professional &amp; Managerial</td>
<td>7</td>
<td>0</td>
</tr>
<tr>
<td>Clerical &amp; Sales</td>
<td>13</td>
<td>5</td>
</tr>
<tr>
<td>Skilled trades</td>
<td>20</td>
<td>20</td>
</tr>
<tr>
<td>Unskilled laborers &amp; farm hands</td>
<td>60</td>
<td>75</td>
</tr>
</tbody>
</table>

TABLE III. DISTRIBUTION OF 100 OFFENDERS BY OCCUPATION AND BY OCCUPATION OF THEIR FATHERS

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In the category of childhood environment a city is defined as an urban center over 100,000 population; a town is any incorporated town up to 100,000 population; rural area is farms, ranches and unincorporated centers. In our group of 100 offenders, 41 were reared on farms, 50 in towns, and 9 in cities. Of the total number, 45 attributed their falls to alcohol.

In the following table we have listed the number of children in the families from which our study group comes and grouped them from 1 to 7 or more.

<table>
<thead>
<tr>
<th>Number of children in family</th>
<th>Number of cases</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>10</td>
</tr>
<tr>
<td>2</td>
<td>10</td>
</tr>
<tr>
<td>3</td>
<td>13</td>
</tr>
<tr>
<td>4</td>
<td>25</td>
</tr>
<tr>
<td>5</td>
<td>14</td>
</tr>
<tr>
<td>6</td>
<td>9</td>
</tr>
<tr>
<td>7 or more</td>
<td>19</td>
</tr>
</tbody>
</table>

As can easily be seen, 67 of our study group came from families with 4 or more children; 42 came from families with 5 or more children; 28 came from families of 6 or more children; and 19 from families of 7 or more children.

The item "Religion" was included in the inventory after some deliberation. When the inmate was asked about his religion, we made
certain reservations depending on the type of answer received and how it was expressed. For example, if a man stated he was a Catholic, he was asked if he had been to Mass within the last year. If he said yes, we recorded him as a Catholic; if he said no, we recorded no religion. With the Protestants it went somewhat differently since we were interested in their particular denomination rather than the fact that they were non-Catholics. If they stated they were Protestant, we immediately asked what kind; if they could not immediately name the denomination, we recorded them as no religion, since if they had any reasonable affiliation with a particular church, they would have named it readily. We also used the same criterion of attendance at least once in the last year although this, admittedly, is a poor measure of a man's religious affiliation. There were 24 listed as Catholics, 24 listed as having no religion, and 52 listed as Protestants. Of the Protestant group, 10 were Lutherans, 15 Baptists, 8 Presbyterians, 3 Methodists and 11 assorted minor sects.

Under the item of Ethnic background, or nationality, a method was used which should give proper representation of any ethnic group appearing in the study. As might be expected, each inmate did not have one particular ethnic group as his forebears; some had as many as four or five. Since the total group studied included only men of Caucasian extraction, we have divided these into 5 major ethnic groups. Each national group named was given a point if the man was of mixed descent.
TABLE V. NATIONALITY BACKGROUND OF 100 INMATES

British Isles: English
Scotch ) 83
Welsh )
Irish )

Scandinavian: Norwegian, Swedish, Danish 22

Germanic: German, Austrian, Hollanders 32

Slavic: Polish, Russian 2

Latins: French, Spanish, Italian, Rumanian 20

Average length of sentence for the whole group: 3 years, 9 months.

TABLE VI. AVERAGE LENGTH OF SENTENCE BY TYPE OF CRIME RECEIVED
BY 100 OFFENDERS

<table>
<thead>
<tr>
<th>Type</th>
<th>Average</th>
<th>High</th>
<th>Low</th>
</tr>
</thead>
<tbody>
<tr>
<td>Larceny</td>
<td>3 yrs. 1 mo.</td>
<td>14 yrs.</td>
<td>1 yr.</td>
</tr>
<tr>
<td>Forgery</td>
<td>2 &quot;</td>
<td>3 &quot;</td>
<td>10 &quot;</td>
</tr>
<tr>
<td>Crime against the person</td>
<td>6 &quot;</td>
<td>9 &quot;</td>
<td>25 &quot;</td>
</tr>
<tr>
<td>Sex crimes</td>
<td>3 &quot;</td>
<td>9 &quot;</td>
<td>10 &quot;</td>
</tr>
</tbody>
</table>

There were 13 cases that had medical histories which were, or could have been disabling features either mental or physical. Two of these were first-time offenders, 11 were multiple offenders.

Repetition of type of felony. Of 59 multiple losers, 38 repeated the same type of crime and of those 38, 17 repeated the same crime more than twice.
ANALYSIS OF DEVELOPMENTAL FACTORS

In a study such as this, it is probably easier to follow point by point if we study the offender from his point of origin, i.e., the home, to the place we now find him in the prison. Of the 100 men studied, only 27 came from Montana, which would tend to indicate that these men were quite mobile and at some time or other in their lives they were migrating in an east-west direction. Only 8 came from points west of Montana, the rest coming from points east and southeast. Mobility, then, seems to enter in here.

Perhaps it might be well to mention what Dr. Henry R. Feinberg, psychiatric consultant and board member of the Travelers’ Aid Society in Chicago states: “Trying to escape through travel is a very common experience, but you can’t escape what’s inside you.”

“Flight is one of the fundamental characteristics of the human animal. When trouble hits, it is either flight or fight, and those who can’t fight try to maintain the fantasy of escape through flight. Traveling is not really living and anyone who travels excessively on purpose, and anyone who talks of moving from place to place, is fleeing from some inner conflict he cannot solve.”1/ This theory is borne out by the day-to-day records of the Travelers’ Aid Society.

If you will notice the point of origin for the majority of these men, you can readily see that many of them have been on the move a great deal. Of the 27 Montana natives, 19 came from points east of

the Continental Divide. Considering the fact that the State's population is about evenly distributed east and west, there would seem to be a disproportionate amount for the eastern part.

Twelve of the men had eighth grade or less education. Eleven of these twelve were day laborers, 1 was a painter. Of the other 7, 4 had completed high school education, all 7 were day laborers. Of the 8 from western Montana, 2 had eighth grade or less educations, 1 had completed high school, the rest were in between.

Of the 8 men in the western group, 5 came from major population centers, the rest from towns of less than 5,000 population. Of the eastern group, 8 came from major population centers, 11 from towns of less than 5,000.

In Montana the economic and geographic aspects play an important part in the picture. In eastern Montana we have the large wheat and cattle ranches, with a scattering of railroad centers, providing the basis for a good deal of employment in that area; add to this a climate which is very cold in the winter (as far as 40–50° below zero) and hot and dry in the summer (as high as 104°). From this type of environment we have the 19 Montana men of our study, 18 of whom were day laborers; 12 with 8th grade or less education, only 4 who had completed high school, the rest in between. What is there for a laborer to do from the first of November until the end of March in country such as this? You can say yes, but there are thousands of other people living in this area who are law-abiding citizens. That is true, but remember that these men also have
other handicapping factors which when piled on top of one another in the right time and place are like the proverbial straw that broke the camel's back. The employment factor seems to be important here, and also lack of training as far as the Montana natives are concerned. Of these 19 Montana men, 11 came from broken homes; 7 had no professed religion whatsoever. Of the 3 from the western group, 1 came from a broken home, 2 had no professed religion.

The geography and economy of western Montana is quite different from the eastern part. Here, we have the big logging industries and related jobs, also the large mining interests and their related industries. There is also extensive agricultural activity more heavily concentrated in cattle and dairy products rather than grain. With this type of a varied economy it is easy to see that there are more opportunities for employment for the greater part of the year in western Montana, which could be one of the reasons for the large difference in Montana east-west representation in our study group.

Next in line would be the home itself, or at least some of the things we know of the individual's home culture that are facts unchangeable. We will analyze two factors of the home situation from the standpoint of the total effect on the individual. One is size of the family, the other is a broken home background. Forty-six of the study group came from a broken home background. Much has been written about the deleterious effects of the traumatic experience of divorce on the young child and also
of separations and desertions. In each of these three situations the effect on the child will vary according to his age. He may feel that he is in some way responsible; far worse, he may feel that he is unwanted; lack of a stable masculine figure to identify with in the formative years is also an important factor. The Gluecks in their recent book Unraveling Juvenile Delinquency reached the conclusion, "that we cannot judge by neighborhoods as to why some become delinquent, for without consideration of the under-the-roof-culture, there can be no explanation of the differential influence of similar neighborhoods. The main factor seems to be whether or not the boy feels wanted in his home. There must be a warm relationship between parents and children."2/

It seems safe to assume that in cases of divorce, desertion and separation this factor of being unwanted on the part of the child is strongly present in all cases. In cases of a broken home by death, the unwanted factor may crop up again when the surviving parent remarries and the child feels unwanted by the step-parent. Consider here this statement from a speech given by E. Preston Sharp, Executive Director, Youth Study Center Juvenile Court, Philadelphia, Pennsylvania:

"Three factors are basic in the behavior of children: (1) Security, (2) Standards, (3) Constructive Discipline.

"If children have positive experience and training in these three areas from birth through age seven, or better through age fourteen, the possibility of their becoming delinquent and later criminals is reduced to a minimum.

"When asked what one factor I have observed in the thousands of adult criminals and thousands of juvenile delinquents with whom I have come in contact, the answer is insecurity. By "security" I do not refer to dollar application but primarily to whether or not children feel they belong, they are loved and have opportunities for positive recognition. Another important phase of security is religion. No matter the faith of a person, the importance of his sincere belief in God gives him the feeling of security which is vital. Sound basic standards are essential in planning for constructive behavior patterns. By "standards" I mean those principles which we learn to use from the time we are able to understand our parents to determine right and wrong. The major source of these standards is the religious teachings of our faiths. Principles or standards are learned in two ways - through faith and through intelligence. The faith principles are the ones that affect our consciences when we deviate from that which we know is right. Unfortunately in our country there has been a good deal of waiving and change as to what is right or wrong. In certain areas it seems the first question, 'Is it legal or illegal?' is applied rather than 'Is it right or wrong?', or 'Is it ethical or unethical?'

"There has been a great deal of controversy concerning discipline.

"One school of thought stresses the need for a maximum amount of permissive activity. Often overlooked is the fact that children want discipline. They are anxious to know what they can do and what they are not permitted to do. Granted the American child is probably the most original child civilization has known and there is need of opportunities for self expression. Conversely there are times when, especially the natural parents, must stimulate the padded areas of the physical structure. However, basically constructive discipline is built upon respect. Proper respect starts in the home where the father shows respect for the mother, and vice versa. Unless discipline is built upon respect it will not carry over to the respect of property rights or the feelings of others. The deterrent which has real foundation is not fear but rather the pause between temptation or thought and the act, when the boy or girl
thinks, what would my father, mother, teacher, minister, priest, rabbi, or God think if I committed this act?"^{2}

We will want to refer to these factors again in relation to the home background. In our broken home background, where does our offender stand in relation to these basic factors enumerated by Mr. Sharp?

The offender in our study has few, if any, of these basic factors to build on. He has no security, emotional or otherwise. Twenty-four had no religion at all. He has few standards and those he may have are all too easily set aside for the seeming advantages of the moment. He does not know what constructive discipline is, the only kind of discipline he knows, in the main, is the overly harsh "do what I say or take a beating" attitude. Right here we as correctional workers can take a cue, for we are often too prone to treat recalcitrant parolees the same way, that is, with threats of return to prison, county jail, etc., without trying to understand what makes the man react the way he does.

We do not mean to imply that an individual coming from a larger than average family is prone to commit crimes nor that they grow up psychologically dependent. However, let us consider just how much of the basic requirements in a child's development, as stated by Mr. Sharp, are met or rather how difficult they are to meet in a family of 5-6-7 or more children.

I think we can say that somewhere in the families of 5 or 6 or 7 children some of these children are not planned for if not definitely unwanted. We come then to the problem of whether or not they will remain unwanted in their formative years. For many parents their unconscious attitude will remain the same, for others it will change with the child's birth and later development. To face reality, a goodly number will always remain unwanted and this attitude on the parents part, conscious or unconscious, is easily picked up by the child. Carry this over into the prison situation where the inmate feels unwanted by society and we have a very difficult case for rehabilitation.

Lloyd Ohlin in his book on parole predictions says that some of the requisites for success are:

"Close family relationships help the parolee feel that he is wanted and that society accepts him. His adjustment is made easier because he finds a clearly defined place for himself and a conventional role to play. The effect is to direct his activity along conventional lines and to offset feelings of being rejected, different or set apart - as though he, an ex-convict, were on one side of an impassable barrier and the conventional person on the other."

How much training by work and example can be given to a family of 5-6-7 or more when the father is a day laborer and has to work long hours to provide that financial security which even at a minimum level is necessary? How much training can the mother give if she is so burdened down with the household chores she does not have time to listen to her children's problems, successes and failures? Somewhere during

the developmental period the chances are very strong that one of these children will be severely slighted at a time when he most needs understanding and guidance. To be sure, many parents can provide adequately for the physical and mental development of their children when the number runs 5 to 6 and beyond, but for every family of this type there are probably a dozen or more who fall far short of even the minimum requirements for their children's development in all spheres of growth.

There is the factor of overcrowdedness which is also partly responsible for some of the individuals later development. In overcrowded homes children often witness quarrels among adults and even sexual scenes. In witnessing these things the child often obtains too much nourishment for his instinctive pleasures. This same child is expected to be more or less a model child in the usual manner. He has to repress his impulses which are constantly gratified by the surroundings. He then may indulge in phantasies of an aggressive nature and also even put some into action. We often hear of or see the child from the larger family being quite aggressive and attribute this to the fact that he has to be in order to survive. This may be partially true but the examples he sees about him every day are probably more important in his development. The unwanted factor, the lack of opportunity for positive recognition, and in many cases lack of basic physical needs, are all items which are very real in the development of a person's personality.

Forty-five cases blamed their falls to excessive use of alcohol. This, again, ties in with the home background and to some extent with the
family size. All of these cases were basically insecure individuals, although many were quite verbose and seemingly of an extrovert nature. However, in the course of the interviews we could see this was only a defense mechanism which operated in some cases extremely well when it seemed that the walls of their insecure mental citadel were about to be breached. These men had a preconceived idea formulated through contact with their peer group—the inmate population—of what the representatives of the parole authority would want to discuss. Therefore they would try to present themselves in the best light possible, even to the extent of engendering some pity for their situation, but not at the expense of their self respect or pride. Their super-ego for the most part upheld, or tried to uphold, the more or less stereotyped idea of the tight-lipped, non-communicative, tough con.

The men who blamed their falls on alcohol were almost all psychologically dependent individuals, as were a good share of the others. We did not develop an adequate criterion to determine such an item as psychological dependence but since everyone is to some extent psychologically dependent, we had to use a subjective evaluation based partly on attitudes revealed in the interviews and, primarily, the combination of certain factors, such as home background, family size, alcohol problem and failure to adjust to Service life. All of the men listed as having an alcohol problem were so listed only after it was found in the course of the interview that this was actually the case. Over half of these alcohol problem men, 24 to be exact, came from broken homes; 26 came from families of four
children or more, average number of children in family being 6.1. Twenty-five were in the Armed Service, 14 received discharges other than honorable; 22 were married or had been. Of the rest, 5 were under 21 or had been in prison since they were 17.

How does one become psychologically dependent? Dependency, says Webster, is the state of being at the disposal of another, sustained by another, relying upon another's support or favor. To be dependent is to be unable to exist or sustain oneself or perform anything without the will or power or aid of something or someone else. Varying with our age, capacities, personal resources, and life circumstances, our dependency on other persons and other things will vary in depth and scope. The necessity to give and take, to carry certain responsibilities and to expect certain rights, all make up the normal balance between dependency and independency, a sort of relative self-dependency.

All this doesn't just happen; certain conditions must be provided to make it so. Just as a farmer plants, cultivates, and irrigates his crops at the right times and under the most favorable conditions, only then can he expect them to grow and mature to the type of harvest he expected. So, also, the growing child must have these certain conditions in varying degrees. He must have that feeling of security in his parents and family, the presence of some tangible material resources to use in play and work, and also the knowledge that there is some reward for taking a risk, for trying, the reward of being loved or gratified. With this background, the child and adult is free to reach out beyond himself.
for new learning and growth instead of continually looking for those things that he should have had in his formative years.

Warden John J. Galvin of the Federal Correctional Institution, Ashland, Kentucky, makes the following observation:

"By his behavior and his self-revelations through tests and interviews he indicates that he sees himself not only as a person for whom others must provide but as one not worthy of success or a good reputation. With such an attitude toward himself he finds it impossible to trust others. If he is a worthless person who does not deserve a real place in society, he really does not merit anything from others. If they give him something, their motives are suspect. He believes that he gains what he needs from others only by dint of basically dishonest techniques, such as stealing, lying, conniving, and making various threats. If he looks beyond the present moment, he usually cannot visualize any other pattern of relationships with people. Originally a victim and now an outcast, he can never hope to be accepted for himself or to achieve anything substantial; he has to survive, and he can do this only by exploiting others."  

Consider, then, these men who for the most part are still searching for security, for affection, for status in the eyes of their fellow men. By their own efforts they are not able to find their place in society. According to Dr. Ralph Banay, "Every criminal has a defective personality, but this is not to say that all defectives commit crime. Nor does the term defective mean that these people are either feebleminded or insane in the legal or in the clinical sense. These inadequate, distorted personalities suffer from one universal symptom—severe tension, external and internal, because of their incapacity to adjust or to modify pressures and restrictions in their private lives and personal relationships which have become unendurable. Crime is one  

of the three major reactions to intolerable situations—the others are
an unhappy partial adjustment, or escape by neurosis or even psychosis.
(In fact commission of a crime sometimes provides release which enables
the individual to keep afloat without sinking into a psychosis.) The
unpalatable truth is that every one of us has a criminal potential."

SUMMARY AND CONCLUSIONS

We have certain features here in the developmental background
of these 100 cases which are normally considered to be handicaps to
adequate and complete adjustment in society. We cannot demonstrate
scientifically that these features are truly handicaps; however we have
isolated certain areas of social deprivations which occurred frequently
enough to be considered common to this group. We have compared some of
these features with similar statistics from the State of New York. Not
all of the features could be compared on an equivalent basis due to
different methods of tabulation. The New York figures are based on
13,172 parolees for the years 1948 through 1951. The comparisons are
listed on Table VII.

**TABLE VII. COMPARISON OF BACKGROUND FACTORS IN 100 MONTANA OFFENDERS
AND 13,172 NEW YORK OFFENDERS**

<table>
<thead>
<tr>
<th>Marital Status</th>
<th>Age Distribution</th>
<th>Broken Home</th>
<th>Education</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Mont.</td>
<td>N.Y.</td>
<td>Years</td>
</tr>
<tr>
<td>Single</td>
<td>54</td>
<td>65</td>
<td>1-25</td>
</tr>
<tr>
<td>Married</td>
<td>24</td>
<td>15.4</td>
<td>26-30</td>
</tr>
<tr>
<td>Divorced or</td>
<td>22</td>
<td>19.6</td>
<td></td>
</tr>
</tbody>
</table>


7/ Annual Reports, 1948, 1949, 1950, 1951, New York State Division of Parole.
On the four items compared we find that our Montana average inmate has a lot in common with the average inmate in New York.

We will now consider all the features and implication which are involved in this chapter so that we might have a fuller knowledge of what the average inmate is like and be better able to pin-point the needs that should be met in the correctional institution program and followed through in the parole period. From our social information cards we found that 51 of the group were 30 years old or younger. This would tend to indicate that this group would be more susceptible to educational programs within the institution and, likewise, susceptible to criminal influences within the institution. A definite need for segregation is indicated for the majority of this group and also for the majority of the 41 who were first-time offenders. (Note: segregation is treated at greater length in Chapter V.)

Under the item "Education," we have 44 with eighth grade of less schooling. The large number of younger offenders, the large number of those with limited education combined with the large percentage of common laborers seems to substantiate the importance of educational facilities and programs in correctional institutions which handle the younger offenders as a means of preparing them for parole.

Forty-six of our study group came from broken homes. Although this factor by itself is not sufficient to account for anti-social behavior, it is probably a contributing environmental factor. Its significance is confirmed by social histories and the attitudes of these offenders which
indicate that economic and emotional stress and lack of constructive relationships occasioned by broken home situations during childhood and youth have contributed to their deviate behavior patterns. In terms of sociology, the broken home situation points up a wide variety of social problems which have had their effect upon criminal offenders as a group. The result in most cases has been the impairment of their ability to relate to others in society in an acceptable manner. One of the ways that this effect can be counteracted is by providing the offender with the opportunity for constructive relationships through the use of sound case work principles within the correctional institution and under parole supervision.

The high number of marital failures (22) has somewhat the same meaning for the correctional institution's personnel and the parole agent as the broken home factor. Like the broken home situation, the marital problems of these offenders have their roots in the offender's inability to relate to others and are essentially problems of relationship. Although we classify them within the broad group of problems which are frequently in the offender's background, the solution of them for the offender is through the individual processes of case work treatment.

The large number of single men (54) also has important meaning to the parole agent because many of these offenders will start the process of reintegrating themselves in the community without the stabilizing effect of normal family relationships. It is also logical to assume that the parole agent will be called upon frequently to make decisions regarding
permission for parolees to marry, and this quite often after a parolee has been in the community only a short time, hardly long enough to establish himself. In addition, because of the large number of single men who have been deprived of any contact with the opposite sex for varying periods of time, it is likely they will present some problems to the parole agent in the area of promiscuous relationships with the opposite sex.

The number of men who claimed an alcohol problem (45) indicates a need for special treatment in this area during the institutional period and especially during the first 30 days of the parole period. Here, again, is an obvious inability to relate to others in a meaningful and acceptable manner, hence the need for a third agent, an equalizer, or a mixer. Many of the men in this category could be helped through psychiatric treatment during the institution period, with follow-up case work during the parole period.

The 59 multiple offenders present both a problem and a challenge for both the correctional institution and for the parole agent. In the first place, the repeater is what we call "con-wise;" he knows the ropes, he has been in before and knows what to expect. He, for the most part, has adopted the anti-social attitudes and feelings of the inmate group as part of his personality structure or otherwise he would not be in as a repeater. For this reason he is going to be more difficult to work with. In the institution he will usually give lip service to everything and in most respects conduct himself as a model prisoner. This does not
mean he is accepting the institution program at all but merely that he is playing the game according to inmate standards. He knows that in most institutions, if he behaves himself, he will stand a better chance for earlier release.

The anti-social attitudes of the repeater have been developing over a long period of time. In most cases unsuccessful efforts to cope with him and his problem have been made by family, school, community agencies, even the courts through probation, before he was finally committed to a correctional institution. Three points are in order here: (1) The repeater can be reached through proper case work methods in the institution and on parole; (2) The prior commitments were probably in an unsegregated type of institution; (this point is covered in the next chapter); (3) Since the development of anti-social attitudes in the repeater took a good deal of time, the change back to normal and acceptable attitudes is also going to take some time. The parole agent will need to realize this during the supervision period. During the institution period many of the problems and handicaps which the offenders have are treated and alleviated to some degree for a certain proportion of the population.
CHAPTER V

THE INSTITUTION PROGRAM

The Institution Program is in reality a number of smaller programs which are all interrelated, or should be, with the central idea that most men committed to correctional institutions will someday be released into society again, preferably better than when they came in. These programs include religion, education, vocational training, recreation and medical services. We will examine them, one at a time, and attempt to see just what contribution each makes toward the preparation of the inmates for return to society.

The Religious Program. Religion has always played an important part in the affairs of our society and has also been an active influence in bringing about penal reforms. The inmate population in any institution is made up of members of many faiths. This poses something of a problem in holding religious services. However, most institutions have chaplains for the major faiths, the others can usually obtain pastoral guidance, instruction and counseling from clergymen of their faiths in local congregations. Every inmate should have the opportunity to participate in religious worship and receive instruction and counseling. The chaplains who minister to the needs of the inmates should be able to understand the peculiar problems, the tensions and frustrations presented by incarceration.

Dr. E. M. Jellinek, Consultant on Alcoholism with the World Health Organization in Geneva, Switzerland, makes the following statement regarding tensions:

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"Religion is a relief from tensions - not a release. Religion compensates for the frustrations of life and offers a purpose when frustrated man sees no more purpose in life. Religion can equip man to utilize only the best of releases and to a wholesome degree only. Religion can equip man for tolerating frustrations without bitterness, without accumulating tensions."

The National Chaplains' Association has adopted the following standards for chaplains in correctional institutions:

1. Chaplains, fully qualified and approved by established religious bodies, shall be appointed in every institution.

2. The chaplain shall be a responsible member of the administrative staff and accorded all professional privileges.

3. Appropriate facilities and equipment for the conduct of services of worship and other religious ministrations shall be provided.

4. The right of all inmates to attend services of worship, as arranged and determined by the chaplains, shall be recognized and their attendance encouraged.

5. The right of all inmates to free counsel with their spiritual advisers shall be respected.

6. The right of all inmates to religious instruction shall be acknowledged, and suitable opportunities for such instruction shall be afforded.

7. The chaplain shall encourage interest of religious and socially minded groups and enlist their active support in the continued spiritual care and development of the inmate upon release.

Item No. 7 is probably one of the most important factors and one of the least promoted parts of the religious program. If all of


this counselling, instruction, training, etc., is to mean anything to
the inmate, then the gap from institution to free society must be
bridged by understanding and acceptance in the individual's home com-
munity and religious group. Here is an area where the chaplain should
maintain close contact with local clergymen and the parole supervisor.
In this way the program which the institution has either started or kept
alive is carried on in the community and is made a meaningful part of
the individual's life.

The Educational Services. Most all prisons have a formal
education program of some sort. The extent and complexity of the program
is determined somewhat by the size of the institution and also by the
importance attached to it by prison administrators. It can range all
the way from merely teaching elementary subjects to completing high
school requirements, and beyond.

While education in and of itself cannot accomplish the desired
ends in correctional treatment, it certainly can make a substantial
contribution. It can help the inmate to better understand himself and
learn how to get along with others in an acceptable manner. At the
same time it introduces him to the finest works of man and gives him an
appreciation for such things as music, art, and literature. It can also
teach him the necessary skills and techniques to earn an honest living.

The program should be academic and vocational and both sections
should be arranged to permit the individual student to progress as
rapidly as his motivation and ability will permit. The academic shool
should be divided into several parts: (1) primary elementary, where
the tools of literacy are taught. This part ought to be compulsory in
all prisons - it is in federal penitentiaries; (2) Secondary elementary,
which would include arithmetic, English, and current events seminars at
a grade level comparable to 7 or 8; (3) High school and college extension
courses.

Subjects such as English would lay great stress on such practical
uses as letter writing and job applications. Arithmetic would include
problems on household finances and budgeting methods, especially with
the married men. Vocational training is a part of the individual inmate's
education that should not be neglected. After the appropriate tests have
been given - aptitude, mechanical ability, intelligence - the inmate
should be assigned to something which suits him and, hopefully, something
for which he has expressed a preference.

Total over-all planning should enter in here. There isn't much
point in training a man for the printing trade if he is pretty sure he
is going to operate his father's ranch upon his release. A varied type
of program should be offered. In most prisons, a system of on-the-job
training is offered in connection with the regular maintenance work in
the industrial shops, the agricultural machinery, and the operation of
the institution itself. This type of training is valuable insofar as
the men who are assigned to various duties as electricians, plumbers,
carpenters, mechanics, etc., are proficient in these trades and able to
teach the men assigned to them. There are also full time trade training
shops and a rotation system should be worked out so men from the shops
could spend some time in the maintenance crews to gain practical
experience. In some states, conservation, flood control, and reforesta-
tion projects are worked out in cooperation with state forestry officials.
The opportunities for use of selected inmates for projects such as these
are unlimited in a state such as Montana.

Recreation. This is an area which has grown in importance in
spite of former criticisms and objections on the part of the public.
Fortunately, the public view toward recreation in prisons has changed
and is still changing in favor of it. Competitive outside team sports
such as baseball and volleyball not only provide a means to relieve
tension but also teach teamwork — working with others for a common goal —
and also disseminate to a certain extent that feeling of belonging and
being an essential part of an undertaking. Proper use of leisure time
can be taught in an interesting and beneficial way to all inmates. A
recreational program which can do this for most of the inmates should
have the following characteristics:

"1. The primary objective of the program should be
to provide a medium for rehabilitation. Recreation is
not just a luxurious privilege for the few. It is a
vital necessity for every human being, especially for
those whose lives are restricted by enforced confinement.
It gives training in good sportsmanship, fair play, and
teamwork, contributes to mental and physical well-being,
and puts prisoners in the state of mind in which they
are more receptive to good influences, more interested
in making progress, and more likely to succeed. Recreation,
therefore, should have a definite place in the institution's
program of rehabilitation.
"2. The program should be an integral part of the institution's overall program and coordinated with it. Although recreation is important, it must be kept in its proper place. There must be a balanced ration of work, recreation, and training. Recreation should be a corollary of work and not a substitute for it. It is most appreciated and has its greatest influence in the building of morale when it is earned by the conscientious performance of duties.

"3. The recreation staff should work closely with the clinical staff in the individual treatment of prisoners. The knowledge of all staff members should be pooled through the classification committee and used as a basis for regulating and directing the recreation of inmates and for prescribing corrective exercises in cases where these are necessary.

"4. Participation in the program should be voluntary on the part of the inmate unless action is necessary to preserve his health. Indirect methods and intelligent planning should be used to induce participation.

"5. Policies should be formulated, objectives established, and work conducted under the supervision of a trained director of recreation. He should be a graduate of a school of physical education and have the qualities of personality and character which cause the prisoners to accept his leadership readily and to profit by it.

"6. The program should be supported by adequate funds which are regularly included in the institutional budget. It should not depend upon the uncertain income from welfare funds, visitors' fees, etc.

"7. All staff members employed in the program should be trained in the activity in which they are engaged. However, they may be assisted by inmate instructors and leaders who have been carefully selected.

"8. The program should have a variety of activities to provide for the individual needs of prisoners. It should include sports, social games (such as card games, checkers, dominoes, etc.), hobbies, club activities, musical organizations, theatricals, and entertainments and amusements (such as lectures, motion pictures, radio and television programs, library activities, and participation in the preparation and publication of inmate periodicals).
"9. The facilities, equipment, and supplies should be adequate and used to the maximum throughout the day. There should be sufficient space for every type of outdoor recreation appropriate for the institution's inmates. There should also be sufficient facilities for indoor recreation, including a well-ventilated auditorium with adequate stage and modern motion picture equipment, a gymnasium where basketball and other games can be played when outdoor recreation is not practicable, and a central radio receiving set so that programs can be controlled, the cells being provided with outlets for headphones for each prisoner.

"10. The inmate publication should be well staffed and enthusiastically supported by the administration. An excellent example of what can be accomplished with an inmate publication is furnished by the Persidio of the Iowa State Penitentiary. It has been adjudged by many as the outstanding inmate magazine of the country.

"11. The library should be adequately staffed and provided with a good stock of diversified and easily accessible reading material.

"12. Staff meetings and bulletins should be used to aid the custodial staff and others in understanding the significance of the program and its accomplishments."

Medical Services. Since the prison is a society within a society, it seems most obvious that medical services should be of prime importance. With hundreds of men living in close proximity to one another, the possibilities of epidemics are always present. Constant guard must be kept against this one factor alone, however, there are many other areas where medical services come into use within the prison. The medical officer should supervise the institution's sanitation methods. The objectives of good prison medical services are as follows:

"1. Cooperation of the medical service with other services in such a way as to produce the best type of over-all institutional management.

2. Establishment and maintenance of acceptably high standards of institutional hospital administration.

3. Creation of a regular procedure of admission and periodic examinations for inmates and the diagnosis of their physical and mental illnesses and disabilities.


5. Supervision of an employee health program, including among other things pre-employment and subsequent periodic medical examinations.

6. Participation in the development and maintenance of an industrial hygiene and safety program.

7. Supervision of institutional sanitation.

8. Supervision of institutional nutrition.

9. Adoption of preventive measures to protect the health of the institution and adjacent communities against the spread of communicable diseases.

10. Participation in such administrative functions as classification, discipline, in-service training, release procedures, and parole.

11. Conduct of research into the causes of behavior disorders, crime, and delinquency.

12. Development of therapeutic techniques calculated to reduce the incidence of such aberrations.

These four programs, Religion, Recreational, Educational-Vocational, and Medical Services constitute the program which is carried on in most prisons today. In some states these programs exist almost in name only; in others, each area is highly developed with well-trained personnel administering the program. In addition to these basic subjects, some of the more advanced prisons have courses in social living and group therapy.

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Many prison administrations today are beginning to realize that their job involves more than merely teaching fundamental and useful skills. They must supply the inmate with the tools for living in a socially acceptable manner in a highly competitive world. They must prepare him mentally for the day of his release. This preparation should start the first month he is in the institution. Lectures can be given by the institutional parole officer regarding the parole system and how it affects the inmate. The inmate should be told what will be expected of him by the parole board so he can start preparing in a constructive way. If he knows that parole is not an automatic thing but rather that favorable action depends on his own efforts to better himself, he will exert his efforts in this direction. Still more important is the preparation given the inmate after he has "made parole" and has a tentative date set.

Ideally, all men released on parole should be released from an outside or minimum security unit if possible. Several states have developed a pre-release program which is designed to bridge the gap between a highly regimented type of existence to normal social life. A pre-parole school, combined with a work program covering a time span of from 30 to 90 days would work out fairly well in most places. An open camp type arrangement is most desirable. Because of the manner in which release dates are set, a maximum time of 90 days should be allowed. When an inmate appears before the parole board and after thorough consideration the board decides to parole a man, it may be done in several ways. The three most
frequent are: (1) A definite date for release is set, usually 30 days or more following the hearing; (2) The date is to be set by the Director of Parole pending an approved plan; (3) The date is to be set by the Director of Parole pending approval and acceptance by another state. Out of state plans usually take between 30 to 60 days to be cleared; approved state plans usually take the same time. This gives an ample period for all these men to be properly prepared.

Where a camp type program is in use, it should operate on a minimum of regimentation. The surroundings should be in keeping with the purpose of the camp. Meals should be cafeteria style, with plates used instead of trays. The men should be allowed to wear civilian clothing on Sundays and holidays and when receiving visitors. The program in such camps should be a combination of work and lecture-discussion type teaching. Various resources can be used to carry out such a program. Speakers can be brought in such as attorneys, clergymen, law enforcement people, employment managers, and educators. Subjects that are of vital importance to the prospective parolee should be discussed. The following subjects are covered in the pre-parole camps in the Michigan system where such camps have been used since 1953:

1. Alcohol and the Alcohol Problem
2. Budgeting
3. Family relationships
4. Community Resources
5. Law Enforcement
6. Legal Problems
7. Employment Hints
8. Religion as a Way of Life
9. Parole

Pre-release programs are also carried on within maximum security institutions. The usual procedure is for some of the field parole agents to come in and talk with a group of prospective parolees. These agents interpret the conditions of release, explain what they as supervising agents intend to do with the parolee, and also answer questions and discuss problems. Also in some states parolees who are finishing a successful parole period, or who have finished, are being invited to come in as guests to answer questions brought up by prospective parolees. This approach helps the inmates to understand some of the problems involved in living a successful parole. A pre-release program of some type is better than none at all but, ideally, an open camp type program seems to be more in keeping with the final objective of reintegration into society.

Men in prison are detained against their will and even in the most modern and progressive type of prison, with all types of training programs, the average inmate still wants to be free. Next to self preservation, the strongest motivation in any inmate is toward freedom.

In our description of the average inmate in Chapter IV, several things stand out which can be taken into account in the institution program: The large percentage of men under 30 years old; the large


number with less than eighth grade and high school education; the large number of common laborers. This points up an obvious need for more education and vocational training. This is not the only need, however, nor even the most important, but only part of a broad, many-sided picture.

In most literature on the subject of treating human problems, we find the general philosophy expressed that you cannot force a change upon an individual from without but it has to come from within himself. Any change forced on an individual from without is in reality no change at all and will not last. This philosophy we find carried on in many of our most progressive correctional institutions today. Many opportunities for further educational and vocational training are open to the inmates but for the most part this is on a voluntary basis.

What, in effect, are we saying to these inmates with this type of approach? Is it not similar to the careless parents' attitude toward their children when they say to their 13 or 14 year old, "I see you've been missing a lot of school again; well, it's up to you, if you don't want to learn I can't teach you, neither can the school." These parents let it go at that, with the result that the child goes his own willful way, a continual headache to the truant officer if there is one, and many times a headache for the local police department, limited the rest of his life by lack of sufficient education. Considering this, we submit the following proposal for inclusion in the correctional institution program.
Working on the premise that one of the strongest motivations within a prison inmate is toward freedom, let us use this motivation for something he may not want but what will be useful to him in making his way through life. Let us make it mandatory that all inmates who are not mentally handicapped, who have less than a high school education, acquire one if there is sufficient time, or at least advance three grades beyond what they had on arrival.

At the Federal Penitentiary, Leavenworth, Kansas, all physically able men under the age of 50 who are not mentally inferior but who have failed to achieve a fifth grade level of education are required to participate in the literacy training program. They must continue until they have attained a grade equivalent of 5.0 in reading, spelling, language, writing and arithmetic. With the exception of certain safety and health courses, all other education and training activities are voluntary.\(^7\)

For those who have no trade or vocation, let us make it mandatory that they acquire a certain degree of proficiency in whatever trade they desire and are suited for. Let us make these things one of the prerequisites before an inmate is considered for parole consideration.

What can educational and vocational training do in general for the average inmate? Listen to some of the adjectives frequently applied to prison inmates: unsure, unstable, worried, lacking in feeling for others, etc. Out of all the various terms used to describe the condition

\(^7\) Monahan, Thomas F., *Educational, Vocational and Recreational Facilities in Federal Penitentiaries of the United States*, Montana State University, 1957, M.A.
of men upon commitment, many of these could be summed up into one term - confidence - or rather lack of confidence. Many of them are unable to compete with the rest of society in an acceptable manner because of their background in which, among other things, there is a lack of sufficient training. Confidence in anything is learned through experience and training. With training the individual is more eager to try for new experiences. A swimmer attempting to swim the English Channel does not arrive at that point in his athletic career unless he has countless hours of training and experience behind him, and only then does he have the confidence and ability to make the attempt in creditable style.

The degree and type of training an individual has determines to a large extent his ability to compete with others in society. The amount of confidence he has will also be similarly determined. Many prison inmates had little self-confidence to start with and the fact of their incarceration has caused others to lose confidence in them. One of the aims of the institution program ought to be to release men into society with more self-confidence than they had when they were committed. The educational program accomplishes this to a certain extent.

There are many forces which may work to counteract the effect of educational and vocational programs in the institution. The greatest single factor is the attitude of the inmates themselves. Theirs is a subculture which has codes, norms and values which the new inmate is subjected to and has to learn, and to some extent conform to, in order to live with his fellow inmates. The inmate code is strict and does
not tolerate any breach. Therefore, any undue association with any guard, prison official or professional person is viewed with suspicion and distrust. As time goes on, the individual inmate soon finds that regardless of how he entered the institution, he is soon taking on the attitudes and feelings of the group and is even beginning to spread them. This general attitude of non-cooperation, brought about by various feelings of separateness, ostracism, hate, etc., is continually bandied about between inmates so that even for the ones who want to change or adhere to conventional values, the transition is difficult if well nigh impossible for most. For this reason many modifications of correctional institutions have been tried. The rather widespread use of minimum security institutions where self-government is stressed indicates a growing change in correctional philosophy. Notable examples of the open type institution are the California Institution for men at Chino8 and the Federal Institution at Seagoville, Texas.

In the modern maximum security institution today we seem to be working at cross purposes. We say, individualize the treatment, find out what strengths and weaknesses there are in each inmate and adopt a treatment plan that can be followed, with some revisions from time to time, all the way to the end of the sentence. This is as far as it goes. However, if we assume that Professor Sutherland's theory of causation (Differential Association) has any validity, we cannot continue the present method of approach and expect any better results than we are

8/ Scudder, Kenyon J., Prisoners are People, (New York: Doubleday), 1952.
getting right now. What we are doing, in effect, is forcing the inmate to associate day in and day out with the criminal element in a group and at the same time expecting our individual treatment method to counteract this everyday association to the point where the inmate will come to have acceptable social attitudes, etc.

It seems the approach we are following has too many weaknesses. It will work to a degree but the degree is limited. We believe that Professor Sutherland's differential association theory is valid to a large degree and from this take-off point we propose what we consider a different partial approach to the problem of institutional treatment.

Why not classify offenders by types - situational type and learned type? The law defines crime in many ways and several things are involved. There must be proscription in the penal code, there must be a harm involved, there must be a type of conduct, there must be intent and a combination of this with conduct, also a casual relation between forbidden harm and misconduct and, finally, a legally prescribed punishment.²/

For our purposes let us take the matter of intent because this will have a lot to do with association and whether or not the subject's offense is an act which is learned through association and would seem to indicate possible prior contact with asocial behavior. For example, in most types of crimes the intent is proved: burglary,

larceny, fraudulent checks, forgery, etc. However, in some types the intent is not clear and even does not have to be proven. Most common examples of this are statutory rape and manslaughter. The man who is found guilty of statutory rape, manslaughter, non-support, bigamy, and in some cases assault and murder, is a different type of individual than the robber, the burglar, the forger, or the common thief. In ordinary society the men in the first group would not necessarily associate with each other as a special class but the ones in the second group would.

In our modern maximum security institutions and even in some of the minimum security institutions, all these men are thrown together, the only separation in some states being age and whether or not it is a first offense. As the months lengthen into years and our men in the first group are associated day in and out with the members of the larger second group with whom they ordinarily would not have associated on the outside, they begin to take on the attitudes of the second group.

It seems that almost any type of crime which we would call a situational type of crime is in an entirely different category, from the standpoint of treatment, than all other crimes. Therefore, from the standpoint of treatment, our situational type of offender should be segregated whenever and wherever possible to avoid contact with the larger inmate group who have more or less formed anti-social attitudes and who also enforce outward conformation to these attitudes.
From an administrative point of view, this idea may be impractical due to the smaller number of inmates in this category. Segregation could be accomplished by such methods as forestry camps and agricultural units. This type of segregation is being done now in various states but primarily with first-time offenders of all type crimes. While the situational type of offender frequently is a first offender, many other first offenders have extensive criminal careers, the first offense being the first felony they are convicted on. The first-time offender who has a long record of misdemeanors culminating in a felony many times would be a very poor influence in a camp of situational type offenders. This, of course, is a matter for a good classification department to pick and choose the right type of individuals for these camp type programs. Certain criteria will have to be set up to determine what is a true situational type of crime. Questions such as the following will have to be answered in the affirmative:

1. Was this a crime involving negligence or poor judgment? (No intent to harm indicated; example, statutory rape, manslaughter, bigamy, non-support).

2. Was it a crime done in heat of passion, blind rage, etc.? (Careful screening is needed here.)

3. Because of the peculiar motivations of the individual, would it appear that the offense would not be repeated?

These and other questions would have to be answered before adequate criteria could be established but by being very selective in this matter, it seems that we could take a large step forward in our treatment approach.
Men coming out of a situational offender type camp or institution would not present so great a problem for reintegration in society since the men they were associated with during their commitment, by and large, did not have anti-social attitudes and feelings as is usually the case in our present day correctional institutions. The resulting parole success would be high.

Along with this special type of unit another necessary and vital element would be the type of men picked as treatment officers. They would have to be of a higher caliber than the usual custodial type guard or some of the advantages of type selection would be nullified by the common attitude that all convicted felons are criminals, etc.

At the present time there is a minimum security building being constructed at Deer Lodge, Montana, to house about 200 men. This idea of segregating situational type of offenders could be put into effect right here in this state as soon as the building is finished, providing the institution has the proper staff to do the necessary classification.
CHAPTER VI
PAROLE: ADMINISTRATIVE AND FIELD FUNCTIONS

When speaking of parole systems, we must always keep in mind that there are several interrelated standards which must be in effect in order for the system to work to its best advantage and for the purpose for which it was intended. The following points are recommended by the American Correctional Association:

1. Complete freedom from improper control or influence, political or otherwise.

2. Sufficient flexibility in the laws governing sentences and parole to permit the parole of an offender at the time when his release under supervision is in the best interests of society.

3. A parole board composed of members qualified by intelligence, training and experience to weigh the complex problems of human behavior involved in parole decisions, and having the patience and integrity required to render wise and just decisions.

4. A staff of supervisory and administrative personnel, parole officers, clerks, placement officers and other personnel, adequate in numbers to care for the case-load of the parole system, composed of persons selected in accordance with high standards of ability, character, training and experience, and appointed on a career-service basis.

5. An administrative structure within the framework of the state government as a whole which makes it possible for the parole system, without sacrifice of proper independence, to function in complete coordination with other departments and services, notably probation services, correctional institutions, and departments of health, mental hygiene, welfare and public safety.

6. A parole procedure which makes provision for orientating the prisoner toward parole, preparation for the parole board of all data pertinent to the case, a parole hearing based upon careful study of such data, formulation of a satisfactory parole plan, and release under adequate supervision.
7. Operation within the institution of a program which aims at utilizing the period of confinement for preparing the inmate physically, vocationally, mentally and spiritually for his return to society, and puts forth intensive effort at the close of the term toward effecting his release under optimum conditions as far as he, his dependents and the community are concerned.

8. A proper public attitude toward the parolee, so that he may be accorded fair and helpful treatment in his efforts to make good, especially in matters of employment and social integration.

Before we can talk about the system or measure its value or effectiveness, we shall have to have a working definition of our initial concept (parole):

"It is an integral part of the total correctional process: a selective method of releasing offenders into society in such a way that society is afforded protection, and the offender is given treatment while he is in the community." 2/

Needless to say, for this kind of concept to work, it requires professional competence on the part of the field staff, professional competence on the part of the releasing authority and last but not least, an on-going program of public education on the purpose and value to the community and to the offender of good parole procedure for, after all, it is human lives and taxpayers money which are at stake.

Parole is often thought of as a form of trustyship on the outside, with responsibilities and obligations for both the offender and society. It is a period for determining whether or not the offender can withstand the adverse pressures of normal social living. It is in


this period that the training and treatment initiated in the institution is continued in the community. If the community's interests are threatened or if the offender requires additional help and/or control, he can be returned to the institution for further treatment.

PURPOSE OF PAROLE

The purpose of parole is twofold: (1) the protection of society, and (2) the rehabilitation or resocialization of the offender. These purposes are closely knit and usually thought of a single goal. An offender who has been successfully treated with a correctional philosophy that begins at the institution gate and ends with a final discharge from parole is not a menace to society. There is a danger in overstressing one aspect over the other; for instance, the community protection idea can be carried out to the point where the parole agent is doing nothing but police work. There has to be a certain blending of the two objectives, giving due weight to both objectives when decisions are made.

The main job of parole is to help the offender solve his personal problems in an acceptable manner. To accomplish this requires a good deal of help in most cases in order to, first, identify the problems, then to try to understand them and, finally, to cope with them. When the offender cannot utilize this help and cannot conform to society's regulations, it becomes the function of parole to return him to the institution from whence he came to undergo further treatment.
We have outlined briefly the criteria for parole systems and also the purpose or aim of parole. Now we will elaborate further on the various factors which make up a good parole system to compare with our system in Montana and to show how a good system facilitates the purpose of parole. Any parole system has to be set up under a special law so that its functions are clearly defined. An effective parole law has the following elements:

1. Provides for the establishment of a central paroling authority.

2. Provides the parole authority with the power to consider for parole, when ready, all prisoners in the correctional institution, regardless of the nature of the offense involved.

3. Clearly establishes the matter of parole eligibility and vests full discretion in the paroling authority as to the time when parole should be granted.

4. Vests power in the paroling authority to establish rules for the conduct of its operation, to establish conditions of parole, and to revoke parole for violation thereof.

5. Vests power in the paroling authority to discharge an individual from parole when it is determined that supervision is no longer needed.

6. Authorizes the supervision of every individual released from a correctional institution by providing that those who are not released on parole at the expiration of their sentence less good time earned shall be subject to the same type of supervision as if paroled during the period of their good time allowance.\(^2\)

Under item 1 on elements of an effective parole law, the central paroling authority should be made up of a well-qualified group, with no

\(^2\) Ibid.
political axe to grind, and enough members to give the proper time to the study of each case. There should be no fewer than three members, one of whom should serve as chairman. Members of the parole board should be appointed by the chief executive officer of the state from lists of candidates who meet minimum education and experience requirements. Such lists of eligible candidates should be submitted by a special panel composed of representatives of such groups as the State supreme court, State probation and parole association, State welfare conference, State bar association, State university and colleges association. The ideal situation would be that of having a parole board appointed on a civil service or merit system basis and giving board members equal or near equal status with district judges. This makes appointment far removed from politics and permits recruitment on a professional career basis.

Qualifications for Board Members. Since we are dealing here with the lives and fortunes of men and their families, it is essential that the board members be well-qualified to make the decisions they will have to make. There are three major points in which we need to examine the prospective board members:

1. **Personal**: A parole board member must be of such integrity, intelligence, and good judgment as to command public confidence. Because of the importance of his quasi-judicial functions, he must possess the equivalent personal qualifications of the highest judicial officers of the state. He must be forthright, courageous and independent so that all decisions derived from his knowledge and experience may remain unfettered. He should be appointed without reference to creed, color, or political affiliation.
2. **Education:** An educational background broad enough to provide the board member with a knowledge of those professions most closely related to parole administration is ideal. Specifically, academic training which has qualified the board member for professional practice in such fields as law, psychiatry, social work, clinical psychology, applied criminology, education, social research would be most desirable. While it is important that a board member have a professional training in a particular field, it is also essential that he have the capacity to round out his knowledge in other areas as it is important that he have an understanding of the law, the dynamics of human behavior, and an awareness of cultural conditions contributing to crime.

3. **Experience:** The kind of experience background from which the parole board member could make the most effective contribution would be that which has provided him with an intimate knowledge of situations and problems confronting the offender. This might be obtained directly from a variety of fields directly or indirectly related to parole, such as probation-parole practice, the judiciary, the practice of law, social casework practice or administration, institutional services, delinquency prevention and control, etc.  

How does this compare with the Montana system so far as appointment of the Board is concerned? Senate Bill 170 which was written into law by the 1955 legislature, created the State Board of Pardons which, in itself, is somewhat of a misnomer. The main function of the Board is to grant paroles, and the word parole could well have been added to the official title. This Board consists of "three members who shall be appointed by the governor with the advice and consent of the Senate. The Board shall administer the executive clemency, probation and parole system, and shall endeavor to secure the effective application and

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Ibid.
improvement of such system and the laws upon which it is based. The members of the Board shall serve on a per diem basis and shall be paid at the rate of Fifteen Dollars ($15.00) per day of service, plus actual and necessary expenses, and shall meet at least once each month at the State Prison. The members of the Board shall serve for terms of six (6) years, and until their successors are duly appointed and qualified, provided, however, that two (2) of those first appointed after this Act takes effect, shall serve for terms of two (2) and four (4) years respectively. The Governor shall appoint the members of the Board and call a meeting thereof within thirty (30) days of the effective date thereof. The Board shall immediately thereafter set up the system herein provided for, and make the necessary appointments of its director, and other employees. Suitable quarters, supplies and equipment shall be provided. The principal office of the Board shall be in Deer Lodge, Montana. A vacancy occurring before the expiration of any member's term of office shall be filled in the same manner for the unexpired portion of said term. The Governor may at any time, after notice and hearing, remove any member for neglect of duty, malfeasance, misfeasance or nonfeasance in office.5/

There is nothing said about the length of the meeting, only that the Board shall meet once a month. The present practice in Montana is for the Board to meet once a month, usually for two days, sometimes three. During this time, they consider all cases for parole, commutation, commutation,

5/ Montana Codes, 94-9822, Revised 1955.
pardons, and also hold public hearings in such cases as the law or the Board rules require. This means that an average of 50 cases are disposed of each month, with usually little more than fifteen minutes allotted to each case. This is not a fault of the Board members. They are doing the best they can in the limited time they can allow away from their own businesses. Rather, it points up a glaring weakness in the law, one that could be remedied by several methods. Ideally, of course, a full-time Board would be the answer but this is not feasible in a small state. Another way would be to appoint a permanent Board member with two part-time members. This way, the permanent member would have ample time to study the case material in advance of the Board meetings and acquaint the other members with its contents. This is one weak point in the Montana law that could be changed.

Referring to items 2, 3, 4 and 5 of effective elements of a good parole law (see page 106), the Montana law is in agreement. On item 6, supervision of all offenders released whether on parole or not, the Montana law does not cover all offenders released, only those released on parole. What is needed is a conditional release law which would provide for some type of control over those who are released at the expiration of their sentence less "good time."

The power to consider for parole does not imply that a parole will or must be granted. This is often assumed to be the fact by local law enforcement people when they hear that a certain offender has appeared before the Parole Board. It is a matter for the Board and its field staff.
to properly inform local authorities on the functions of the Parole Board. This is an obligation that should not be neglected or left to chance. One cannot assume that the local county attorneys or district judges will know how the Parole Board functions simply because it is in the law books and they are lawyers.

We have noticed here in Montana that the tendency of some of our county attorneys and judges is to lean toward longer sentences since they feel that an offender is almost automatically paroled at one-fourth of his sentence. The Montana Board and its staff have endeavored to correct this false assumption.

Under Montana law all offenders are eligible for parole consideration at one-fourth of their sentence less good time earned. This "good time" amounts to ten days per month as long as an inmate is working on an assignment of some sort. In actual practice, the inmate is eligible for parole consideration at nearer one-fifth of his sentence.

**Determination for Parole.** In determining whether a given inmate is ready for parole at the minimum time allowed by law, the parole board uses the sources near at hand which have, or should have, all the pertinent information concerning the prospective parolee. This information is usually gathered by the institution's classification department and covers the inmate's total adjustment pattern and potential. The analysis of the individual's overall adjustment and prognosis for success on parole is not used as a substitute for the Parole Board's judgment, but merely as an aid in forming or arriving at a decision. If the Parole
Board is to function successfully, it must have available all possible information concerning prospective parolees. If the institution does not have an adequate classification department, the institutional parole officer should compile the case material. The material which is needed by the Parole Board should include the following information:

1. Complete social history, including an analysis of the factors which contributed to the offense and may have significance to later parole planning. This should include evidences of any early behavior problems; pertinent data resulting from interviews with the offender himself, his employers, his teachers, his parents, his physician, his pastor, representatives of military authorities, the neighbors and social agencies active with the family.

2. Complete record of previous and present delinquent and criminal activities. This may or may not be included in detail in the social history. It should incorporate an evaluation of the offender's motivation, attitudes and any evident changes in his patterns of living following previous experiences of difficulty. This kind of information is most readily available from the arresting officers, the prosecuting attorney, the defense attorney, the judge - any and all who dealt with the offender from the time of arrest to the time of commitment. (A complete pre-sentence or juvenile court pre-hearing report would include the information in (1) and (2).).

3. Classification and institutional progress reports to include current evaluations of the individual's total adjustment and progress in the institution. An evaluation of any significant responses to the treatment program should also be included, as well as any specific recommendations from the diagnostic-treatment staff.

4. Medical, psychometric, psychological and psychiatric data. These may be part of any of the above three records or reports, or it may be necessary for the board to obtain such professional services as an aid in determining a person's readiness for parole.

At the present time the Montana State Prison is in the process of formulating a classification system and has begun to gather some social data which is valuable in compiling the progress report for the Parole Board. The progress reports for the Parole Board in Montana are compiled by a member of the Board's parole staff and not by any member of the institution staff although this properly falls within the duties of the institution's classification department.

There is another matter which affects the operation of the parole system to a great degree and is so often neglected by parole administrators to the damage of the system. This is the business of public relations. In some parole systems the field operations are under the control and direction of the Board, such as is the case in Montana. In others, the field operations are entirely divorced from Board control and are under a separate division or department, such as a department of correction, etc. In either case, it should be the responsibility of the Board and the field staff to sell its program to the public by any means possible. The public should be told that parole is an efficient and economical method of protecting the public by controlling and directing the offender through skilled supervision by a well-trained staff. This should not just be a flat statement but should be backed up by facts and figures such as number of failures on parole, number of successes, any follow-up studies that may have been done in this or other states on recidivism.
Parole is also an effective means for helping insure a permanently law-abiding, useful life for the offender by means of a carefully planned and executed program. Proper administration and adequate staffing are what produce this kind of parole and will ultimately provide the public with the only acceptable and visible evidence in support of these concepts of parole. Here are some of the facts which are little known to the majority of citizens and therefore need to be constantly brought to their attention:

1. Most offenders would return to their home communities in an average of two to three years without parole.

2. The alternative to careful selection of persons for release and adequate supervision following release, which are inherent in a good parole system, is no selection for release and no supervision after release.

3. Parole if properly administered and properly staffed is not only efficient and effective in terms of protection to the public and service to the released offender, it is also economical, in terms of:
   a. Reunited, strengthened families.
   b. Satisfied employers.
   c. Wage-earning, contributing members of society.
   d. Families removed from public assistance rolls.
   e. Excessive per capita institutional costs reduced.

Public relations in parole begin at home within the parole organization. All personnel, parole board members, parole staff, clerical staff must be completely oriented as to the basic function and responsibilities of the parole board and parole department and the basic concepts of parole. Each person must be considered as a potential for interpreting
parole to the community. Above all, the public should be given a realistic view of the program and its strength and weaknesses. Human interest stories of parole successes are needed to cope with the way some parole failure stories are handled by the press.

FIELD OPERATIONS

The Parole Board or Commission should appoint a director who has responsibility for the functions of the department under the supervision of the Board. These functions are mainly the administration of parole and, in some states, also the administration of probation services, as is the case here in Montana.

In carrying out the supervisory and investigative services of the department, the director should be assisted by an adequate number of probation and parole officers or agents as they are sometimes called. The ideal situation is one in which all the staff members of the department are selected by competitive examinations on a state-wide merit system or by a committee set up for that purpose. The director should appoint from a list of eligibles the necessary personnel in consultation with the Board.

Staff qualifications. All personnel in the parole department should possess the following personal qualities: Integrity, interest in the welfare of human beings, knowledge and insight as to motivations in human behavior, emotional maturity, tolerance, tact and initiative. Educational requirements vary considerably from state to state. However, the minimum should be four years of undergraduate training in a college or university with a bachelor's degree in one of the social sciences.
Some states such as Wisconsin now require Master of Social Work degrees for field positions. Practical work experience in a field closely allied and related to the guidance of human behavior such as casework, counselling, personnel and teaching is also valuable in preparation for probation and parole work.7/

The Federal Probation Officers Association endorsed the following professional standards in September of 1956. (In the Federal system the probation officer also supervises parolees from Federal Institutions.) Qualifications for the appointment of Federal Probation Officers: The following minimum standards should be required in the appointment of probation officers:

1. Exemplary character.
2. Good health and vigor.
3. An age within the range of 24 to 45 years inclusive at the time of appointment unless the applicant has outstanding experience in the correctional field.
4. A liberal education of not less than collegiate grade, evidenced by a bachelor's degree (B.A. or B.S.) from a college or university of recognized standing.
5. Two years of graduate training for welfare work in a school of social service of recognized standing; or two years of graduate training in one of the social sciences in a college or university of recognized standing; or not less than two years full-time professional employment in the welfare, correctional or educational field, a substantial proportion of which has been in casework, guidance or counselling.8/

7/ Ibid.
Staff training and development. The effectiveness of the parole system is in a large measure dependent upon the knowledge, abilities and skills of the individual members. This knowledge and skill is in turn dependent to a great extent upon the kind and amount of on-the-job training and supervision provided to maintain a high level of performance. Departments which employ partially trained staff should endeavor to enlarge and broaden the in-service training program so that the partially trained members can receive full training while on the job. Some of the essential points in a good staff training and development program are as follows:

1. **Regular casework supervision.** This can be one of the most important non-academic teaching devices used. It should include a planned review of each officer's cases with regularly scheduled conferences to discuss problems of individual parolees and the difficulties the officer may have in helping the parolee work out these problems. This method permits a sharing and testing of certain techniques applied to specific case situations with a resultant growth of knowledge on the part of both supervisor and officer.

2. **Regular Staff meetings.** The frequency of meeting depends on the size of the department and the geographical locations of the various officers but semi-annual meetings seem to work out fairly well in small departments. At these meetings the staff should participate in modification of policies and procedures. There should also be a discussion of specific work problems in relation to departmental policies and regulations. Outside resource speakers should be brought in from time to time.

3. **A well-defined program for orientation and in-service training should be established for new staff entering the department.** Such a program should have time for the new members to become acquainted with the agency and its policies and procedures, the institution program, parole board procedures, and the services and policies of related agencies which they will be using as resources in the field.
4. A department manual should be developed as an important aid in orientation and training and for day by day guidance of all the staff. The manual should state in clear and simple language the law or laws governing the department and should be very specific regarding the authority the staff members have regarding such matters as arrests, issuance of warrants, delegation of authority to other law enforcement agencies, status of parolees and probationers regarding bail. The policies, procedures, rules and regulations of the department should be clearly set forth so that there will be no conflicting interpretations. In addition, the manual should discuss in detail the following: personnel policies, staff position specifications, travel regulations, office procedures, pre-parole and pre-sentence investigations and supervision practices. The various forms used and directions for their use should also be included.

5. Annual training institutes should be developed cooperatively with the state university or on a regional basis with other state parole departments. When possible, educational leaves with stipends should be available for selected staff, and the department should provide field placement opportunities to graduate schools to prepare selected graduate students for correctional work.

6. Attendance at, and participation in state, regional and national conferences to obtain and exchange professional information on new developments and studies in the correctional field should be mandatory for some of the staff who, in turn, can make reports and present some of the material at regular staff meetings. Membership in professional organizations would also be desirable.

7. A professional library for the use of the staff should be maintained. New books and publications should be available to the staff on a circulating basis.²

The seven points proposed for staff training and development were discussed and proposed at a workshop on parole at the 1956 Conference on Parole. They represent the ideal situation, of course, which is not always possible in the smaller parole departments.

It is obvious from reading the foregoing points that the parole agents' work is quite varied and covers many points. However, we will not attempt to cover every phase or detail of his duties but only the main or most important part, namely, supervision of parolees and probationers.

**Parole Supervision.** For the most part, parole supervision is a form of social casework. This is not a universally held opinion but it is more social casework than anything else. In parole supervision, as in other casework, we are dealing with individuals who for one reason or another are unable to relate to their society in a meaningful and acceptable manner and who need assistance in learning how to do this. We are dealing with deviations from the norms and through classification, treatment, and services, we attempt to effect a change within the individual that will enable him to relate to his society in a more acceptable and useful way than before.

If the parole officer is to treat deviations from acceptable standards of social conduct, he must know primarily the nature and the circumstances of these deviations and how they relate to each other. He must understand the principles of law, literacy, health, social behavior, home, family and work which are the basis of normal conduct.
in order that he may accurately and objectively evaluate the degree of deviation from normal behavior which has occurred in the individual he is planning to assist.

The classification report (see page 112) is the formal social history used by the parole agency and in a sense is the social diagnosis. It is on the basis of such a report that treatment is initiated in the institution. This method of treatment ordinarily is carried through during the parole period although it may be and frequently is changed.

The original social history or diagnosis is supplemental with further information during the parole period. From his first contacts with the parolee and from studying the social history, the parole agent has acquired a knowledge of the problems and attitudes that the parolee has at the present time. Knowledge of the parolee's problems and attitudes based upon an understanding of his developmental background is of no value in itself.

The intent and purpose of parole and the parole agent's task is to put to use this knowledge for the benefit of the parolee and society. Likewise, the services which the parole agent may be able to give a parolee, or the services he may be able to obtain for the parolee through social agencies or other community resources, will have value only in comparison to the parole agent's ability to use them through the casework relationship with the parolee.

In parole supervision or casework, it is generally accepted that no amount of outward compliance with rules and regulations, no degree of change outwardly in behavior while on parole, can have any
lasting effect upon the parolee's future life unless the parolee has changed within himself and has developed a favorable social attitude that will continue to motivate his conduct after he is discharged from supervision. A permanent change in the outlook and attitude of the parolee can be achieved in the parole casework process through a mutually satisfactory casework relationship. Since the casework relationship is the very core of good parole supervision, the following considerations are fundamental:

1. The nature of the casework relationship used in parole.
2. Methods of developing the casework relationship.
3. Use of the casework relationship.

The nature of the casework relationship used in parole.

Gordon Hamilton describes the worker-client relationship as follows:

"When we say that treatment begins in the first moment of contact, contact is used in a special sense. Meeting and talking with a person does not necessarily touch him. A relationship is not necessarily established. Treatment starts with contact only when mutual confidence is established, only when the client accepts your interest in him and conversely feels an interest in you."10/

The same principles apply to a certain degree with the parole agent's relationship with the parolee's family. Mr. Kenneth Frey, an outstanding authority on casework gives us a somewhat fuller definition as follows:

"Drawing upon the advancing sciences of human behavior, as well as upon the critically analyzed outcomes of its own accumulating experience, social casework has undergone a fundamental change of philosophy and practice. Its new position rests upon


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the conviction - indeed, upon the absolute knowledge - that change enforced upon an individual from outside is, in all truth, no change at all. He will change himself and his social attitudes and behavior only to satisfy himself. He will, in the end, do only what he himself genuinely wants to do, from his own motivations, to achieve his own satisfactions. Social case workers, therefore, no longer believe that they can successfully take upon themselves the role of compelling, persuading, or cajoling individuals to make a different and better social adjustment, to satisfy standards outside themselves. They can only help individuals to discover and face the alternatives open to them, to make responsible voluntary choices of their own from among these alternatives, and then to accept responsibility for the consequences of their own judgments and decisions. The helping or treatment process, from this viewpoint, loses all semblance of control or manipulation of one person by another. It depends rather upon a relationship between worker and client within which the client may if he is able and willing, ask, receive, and use help in clarifying his own wants and purposes, in relation to the resources available to him, and in mustering his own powers to achieve his chosen ends.11/

In using the information described here, the parole agent must realize that he is dealing with a complex subject, the mechanisms which motivate human behavior. He is dealing in a practical way with relationships and human behavior and must recognize that two forces are active here. He has his own feelings toward the parolee and society and he is concerned with the feelings and attitudes of the parolee toward society. He must further realize that the casework relationship involves understanding and evaluation of the emotional as well as the intellectual factors which motivate human behavior.

The emotional factors are more difficult to understand, assess and evaluate than the intellectual, nevertheless, they are the more important.

Experienced parole agents have often seen the futility of trying to explain to the parolee or members of his family by logical reasoning the accepted norms of behavior, or the possible action to be taken in regard to previous or possible future deviations without any recognition on the part of the parole agent of the emotional factors involved. The understanding of emotional factors is basic in any kind of casework but even more important in parole supervision because one of the objectives is to effect a change in a person who has been through the hardening and embittering experience of criminal activity, arrest, conviction and incarceration.

We do not mean to imply that an emotional appeal instead of an intellectual one should be made to the parolee in order to get him to change his conduct or to take a certain type of action on a particular problem. We do mean that the parole agent has to bring about a change in the feelings and attitudes of the parolee, otherwise the time spent in generalizing his problems with him on an intellectual level is wasted. The parolee must be brought to a point where his feelings and attitudes are changed so that he can see himself as he is and can look at his fears, hates and anxieties in a more objective manner. This may take some time but only after this is accomplished is he ready to accept reasoned, intellectual help.

The problem in parole casework is largely a psychological one, requiring maturity and emotional stability on the part of the parole agent along with some knowledge of the subjects of psychology and psychiatry as they relate to motivations and personality development.
He should be able to recognize symptoms of abnormal mental processes in individuals so he can refer them to the proper mental hygiene center.

Casework in parole supervision involves three essential points:

1. Attitudes of interest and understanding by the parole agent.

2. Participation and self determination on the part of the parolee.

3. The attainment of specific objectives.

By attitudes of interest and understanding we mean that the parole agent is interested in all of the parolee's environmental experiences and reality situations, past and present, and also in the meaning those experiences and situations have for the parolee as an individual.

Participation and self determination is developed as fully as possible with the limits of the parole rules. The extent of such participation and self determination is also limited by the capacity of the parolee to accept responsibility for full participation in the casework relationship. He may be too hostile toward society or toward the agent himself. He may be limited by sub-normal intelligence.

The attainment of specific objectives if, of course, the reason for developing the casework relationship. The main objective is to assist the parolee in understanding and learning to deal intelligently with his immediate problems. The final goal of the casework relationship is to develop a responsibility within the parolee's personality so that he is able to make decisions on his own in an acceptable manner.\footnote{Division of Parole Manual, State of New York, May 1953, Chapter IV, Casework Practices in Parole, p. 85.}
Methods of developing the casework relationship in parole supervision. In order to develop the casework relationship to its fullest extent, the parole agent must use certain positive attitudes in his dealings with the men under his supervision:

1. Mutual respect. This is something the parolee least expects, yet he will respond if he consistently is treated as a unique personality worthy of the same respect and treatment as other men. There is another factor here that is worthy of mention and so often forgotten. This is the matter of social distance. The parole agent is likely to forget that over half of the men in his caseload have very little in the way of education or training. He should remember when talking with these men to use simple terms and plain English. The language and terms used in talking with lawyers, businessmen, judges, physicians and with other parole staff is certainly not the same language to use in talking with most parolees. In the first place, most parolees would not understand too clearly, secondly, the impression would be that you were talking down to him, and all this merely serves to widen the social distance which already exists. We do not mean that the agent should adopt all the colloquial terms but simply talk on a level the parolee will understand. The use of authority should be used only when necessary and with discretion and tact as far as possible.

2. An understanding attitude. An intellectual understanding of the parolee and his problems based on the parole agent's own life experiences and standards of conduct is not enough. If it were, the
casework process would be quite simple. The parole agent must be able to see the parolee's problems from the parolee's point of view. When this is accomplished, the parole agent is in a better position to think through with the parolee the various acceptable solutions.

3. **Sincerity and confidence.** Because the parolee is naturally suspicious of the parole agent's motives, it is important that the agent at all times show his sincerity by keeping appointments and promises and in general being as fair as he can. By accepting the parolee as an individual, in spite of his record, confidence is being built. In general it may be said that attitudes - the parole agent's and the parolee's - play an important part here. Confidence begets confidence, and in this case it is the agent who takes the lead.

**Use of the casework relationship.** Since we have described the nature of the casework relationship in parole supervision and also the methods of developing it, we will now consider how the parole agent can use this relationship to meet the psychological needs of the parolee in the areas of emotions and intelligence and then to meet the sociological needs through service.

**Emotional needs.** Because of the fact that most offenders have had little in the way of satisfactory relationships in family, home, school and community, many of them have lost the ability to relate to others in a normal way. In commenting on the parole casework relationship, Mr. Kenneth Pray states as follows:
"What it offers that is new and different and, therefore, positively constructive - is the exercise of that authority in a way which is not arbitrary, personal, or capricious, but only reasonable, fair, and firm. To find and exercise an authority which does not deny the individual's right to be himself, which encourages and cultivates his own difference, which recognizes even his right to fight against authority if he must, but which in the end holds firm to the fundamental conditions upon which social cooperation and integration must rest - this will in itself be a new experience for many an offender. In the regularity of reports and conferences, in the insistent refusal to allow responsibility to be denied, evaded, or shifted, in the consistent use of every moment of contact however fleeting and trivial to examine the alternatives that are open and the consequences they entail - in this firm structure of purpose and policy and procedure, coupled with the disciplined use of deep human understanding and genuine respect for individual personality - is symbolized authority without bigotry or meanness, understanding without prejudice, firmness without rigidity, warmth without sentimentality."

Psychological support. In giving psychological support an expression of sympathetic understanding of the parolee's feelings is necessary. There must also be acceptance of his behavior within the bounds set by the parole rules. For example, a certain individual may be extremely hostile and have a great deal of resentment and hate lying dimly concealed and close to the surface of his personality. In discussing his problems with him you may touch on the sore subject and he immediately explodes into a tirade against everything: the institution, the parole agency, the agent himself, the police, and probably a host of imagined enemies. As any experienced parole agent will agree, this sort of thing frequently happens. How the agent reacts

to it is of vital importance to the relationship. The parolee may be directing all of his abuse toward the agent personally and toward the agency he represents. This is one of the most difficult places for the parole agent to control his own feelings and emotions because he has to accept the display in a calm and firm manner. He cannot react in like manner as he may be inclined to do. If he does, the parolee is on familiar ground, this is just what he expected, his suspicions about the agent are immediately confirmed. However, if the agent's reaction to the parolee's hostility is calm acceptance, the parolee is confused and anxious, he didn't expect this sort of thing, least of all from a representative of a law enforcement agency. After the parolee has vented his feelings and in waiting for the "blow-back" he begins to get anxious about it, this is the time he is vulnerable to suggestions and will more easily believe that the agent has confidence in him and his abilities to solve some of his problems.

**Intellectual needs.** These needs are met through the process of clarification and interpretation, a sort of thinking through with the parolee the various courses of action he may take in regard to some aspect of his life. It may be and frequently is the case that the parole agent can supply the parolee with information about his environment and the people in it which he never had before. This may enable him to make a more satisfactory decision. The agent may also interpret to the parolee the attitudes of other people toward him and also point out how different courses of action on his part will affect other people's attitudes.
Services. Our average parolee is usually a person who has been subjected to varying degrees and kinds of social deprivations. These deprivations are a contributing factor to anti-social behavior. Part of the parole agent's task is helping meet these sociological needs through manipulation of the environment and, at times, by direct action on the part of the agent. Many times the parolee is capable of understanding and meeting his needs by his own effort and when this is the case, he should be encouraged to do so. In other situations, it may be that the agent can assist the parolee in finding employment and suitable housing. The agent may further assist by explaining the various services available in the community which may be of assistance to the parolee.

Obtaining psychiatric and medical services may be necessary to solving a particular problem. Referrals to special organizations such as Alcoholics Anonymous can be made. Usually a modification or manipulation of the environment is only undertaken by the agent when it is obvious that the parolee is subject to pressures beyond his control.

The Final Objective. The final objective of parole casework is that the parolee develop a pattern of responsible living and maintain it after he is released from supervision. In this way permanent protection of society is achieved. This objective is more clearly stated by Mr. Kenneth Pray as follows:

"The one absolutely indispensable foundation of any effort to correct unacceptable patterns of behavior, or to sustain new, acceptable patterns - which is the basic aim of parole - is that the responsibility for
that behavior shall remain, always and throughout, with the individual. And the one essential skill required in the administration of a helping service directed to this end is the disciplined ability to develop and maintain a helping relationship in which the individual remains always free, and always obliged to accept and discharge — never to evade — his own responsibilities for his own choices and judgments and their consequences. The only help which any one can give to another person toward accepting new patterns of behavior is to afford the opportunity for clearly facing and steadily clarifying the available alternatives of action and their potential consequences, and to sustain the individual's strength to face the realities and to accept responsibility for the choices he does and must take. 14
CONCLUSION

We have traced the historical development of the parole idea from its inception to its full development in this country. The many factors which can and do affect the function of parole have been described and discussed. We cannot emphasize too strongly that in order for an offender to be returned to society fully able to live a responsible law-abiding life, it is necessary that he be treated from beginning to end with a single philosophy of treatment. If one part of the total correctional picture is weak, it cancels the effect of the strong parts. For example, we can have the most modern approach to treatment in our correctional institution but if we release men from it to a parole system that is weak and staffed with untrained men, political hacks, etc., we have nullified all the effort put forth in the institutional period. Conversely, an institution which has no program at all can be releasing men on parole to a well-trained staff of parole agents who would then have to start with men who were far worse than they were upon commitment and try to change them. We could have a modern system in our institution and in our parole system and still have their effects hampered by poor sentencing laws.

We have shown the areas of social deprivations which our average inmate has in his background. The needs which he has because of this are met to a certain degree in the institution period and also while on parole.

Because we appear to be working at cross purposes in our correctional institutions today, we propose a new system of segregating
inmates for treatment, namely that the true situational type of offender should be segregated from the non-situational type.

There is a need for more widespread use of pre-release programs. An open camp type system, with surroundings in keeping with the objectives of the pre-release program, appears desirable to bridge the gap from institution to free society.

The casework approach should be used throughout the sentence period but especially so during the parole period. We have described the casework relationship in parole in some detail because it is not too well known and is frequently misunderstood. The casework method has been tried and tested - it works but it cannot do the whole job.

Methods of treatment in correctional institutions are continually being revised as the results of new research become available. Just as a chain is no stronger than its weakest link, so it is in the total correctional process.
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