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STEPHAN HURWITZ · CRIM

CRIMINOLOGY

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FOREWORD

The teaching of criminological subjects has been going on in some European universities for several decades, usually in the law schools though not as a part of their regular curriculum. As a rule, it has been organized in "institutes" attached to these schools and set up to offer instruction to prospective officials in the public services, police, prosecutors, judges, prison administrators, etc. Although these "institutes of criminology" have been fairly numerous, few general textbooks on criminology have been available to their students. Many treatises have been published but they have rarely been designed for teaching purposes. In the last fifteen years, however, a few European texts have appeared, and among them this book by Professor Hurwitz occupies a front-rank position.

Criminologists are not generally agreed on the question of the definition of the scope and nature of criminology. In the United States, the term is loosely used to designate the study of offenders and their treatment; some European scholars tend to adopt this viewpoint today although European tradition supports a more narrow conception of criminology as a discipline which concerns itself solely with the etiology of criminal conduct. Professor Hurwitz is true to this tradition. He regards criminology as "that part of criminal science which by empirical research throws light on the factors in criminality, i. e., the individual and the social factors that condition criminal conduct"; his book is therefore a guide to what we know about the causes of crime.

The study of criminal behaviour is carried on within many diverse disciplines, by many different techniques and with the help of a great variety of "tools". This is bound to be so, for human behaviour — of which criminal behaviour is only a variant — is the concern of all the sciences that deal with Man. The author of a textbook on criminology, even when the subject matter is circumscribed as it is in this book, is therefore compelled to assemble, evaluate, interpret and synthesize data

from many sciences of which he lacks expert knowledge. Many textbooks on criminology, no matter how authoritative they may seem, are glaring examples of the inability of their authors to deal understandingly with the findings of disciplines outside their own. One is tempted, therefore, to apply to criminological writings the observations that Montaigne made on historical books. "In reading history", he said (*Essais*, Livre 1, ch. XVII), "which is a subject written by all sorts of people, I have become used to consider its authors. If they are persons who have no other profession than letters, I learn from them mostly about style and language; if they are physicians, I give most credence to what they say about the temperature of the air, the health and complexion of princes or injuries or maladies; if they are lawyers, one can take from them controversies about rights, laws, public policies and such; if they are theologians, church affairs, ecclesiastical censures, dispensations and marriages; if they are courtiers, customs and ceremonies; if they are military men, matters pertaining to their office and especially deductions concerning exploits in which they have personally taken part; if they are ambassadors, missions, intelligence and practices and the manner of performing them".

Professor Hurwitz is fully aware of the difficult task he has assumed. "In the preparation of this book", he says, "it has become more and more clear to me that 'criminology' is a global term for such a wide and heterogeneous field of knowledge that no single person can master it ... but under present conditions, I consider it defensible that one person should try to coordinate in a systematic presentation the efforts made in very diverse fields to clarify the factors of criminality". He has approached his task with modesty and sincerity and has completed it with great success, insofar as I can judge, being like Professor Hurwitz a specialist in only one of the disciplines concerned with criminal conduct. The framework of the book is clear, the writing is lucid, and the analysis of the literature is made with a critical mind. One of the merits of the book is that it brings the Englishspeaking criminologist in contact with European, and especially Scandinavian researches, often otherwise inaccessible to him; on the other hand, no other European text book writer has shown such a wide acquaintance with American and British criminological studies, as does Professor Hurwitz. The book is therefore a very welcome addition to the criminologist's library.

Thorsten Sellin.

Bern, Switzerland, August, 1951.

PREFACE

This book was first published in Danish in 1947, the second edition appearing in 1951. Students of law and psychology in the Universities of Copenhagen and Aarhus use this book and it is also used in other Scandinavian Universities.

In the English edition a number of references to Scandinavian literature, particularly papers appearing in periodicals, have been omitted, but I have found it advisable to mention certain of the more important works and articles in the Scandinavian languages.

The translation into English has been undertaken by Miss Else Giersing to whom I express my sincere gratitude for a task which has often been difficult.

I am also indebted to Dr. L. Radzinowicz, Director of the Department of Criminal Science of the Faculty of Law in the University of Cambridge, and to Mrs. Radzinowicz for their interest and advice with respect to the present publication.

It has been a source of great pleasure to me that Professor Thorsten Sellin of the University of Pennsylvania has kindly agreed to bring this book to the notice of the English speaking world.

The publication of the present edition has been supported by the Danish Rask-Ørsted Foundation for the Promotion of Sciences. I express my deep gratitude to this Foundation, and also to the English and Danish publishers for making available in a major language a survey which might be of use in wider circles of students of criminology.

December 1951.

Stephan Hurwitz.

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PART I:
THE SCIENCE OF CRIMINOLOGY.

1.
CRIMINOLOGY AND ITS SUB-DIVISIONS.

Scope.

The term *criminology* is used in various senses. In this survey it designates *the part of criminal science illustrating the factors of criminality through empirical research,* i. e. the individual and social factors underlying criminal behaviour.

According to this definition criminology is primarily directed towards analysing the etiology of crime, but it is not intended, however, to keep strictly within this limit. The background to criminal behaviour, as an object of research, is not capable of being unconditionally separated from the forms and extension of this very behaviour and, therefore, criminology must to some extent also include *phenomenology.*

The concept of criminology and criminological surveys often cover *penology* and so-called *penal policy, i. e.* the theory of the means to be employed in the repression of crime. But this tends to make criminology too vague and heterogeneous. It is systematically expedient that here, as in a number of other fields such as the techniques of study, forensic medicine and forensic psychiatry, it should refer to special sciences. Penal policy in particular, is closely related to empirical criminal research, the practical object of research being to create a scientific foundation for a proper penal policy, which policy must be identical with applied criminology. However, as long as the practical results of criminology are uncertain and subject to doubt, there is a long step from purely empirical research to a programme of penal policy; and from the point of view both of method and of

terminology, a clear distinction should be made between the two fields. This, of course, does not prevent the criminological exposition, where the context so suggests, from pointing out the penal-policy implications of the investigations.

The primary object of this survey is to give an account of the research aiming at revealing the factors underlying criminality, but in this connection it will also touch upon certain problems concerning the phenemenology of criminal behaviour as well as the classification, treatment and prognosis of offenders, while a systematical review of a programme of penal policy does not come within its scope.

The survey has reference to general criminology only. With this is associated the special criminology of a few typical forms of criminal behaviour, such as homicidal, sexual, and larcenous criminality. Some of the most important recent investigations relate to such individual types of criminality, sometimes defined according to sociological criteria which, to some extent, are independent of the legal delimitation of the concepts of crime. We have here a *criminal typology* as a special discipline.

A tabular survey of the whole of criminal science with its numerous sub-divisions has recently been made by *Olof Kinberg, vide* "Referat och korreferat til Nordiska Kriminalistmötet i Stockholm 1949", p. 100, N K Å 1946—47, p. 320. The author, who designates criminal science as a whole in terms of "Criminology", divides the latter into two main divisions: 1) the *etiology* of crime, 2) the *prophylaxis* and *therapy* of crime, including penal policy. According to this division the substantive criminal law together with the law of criminal procedure form a modest subdivision of the therapy of crime. This is misleading in several respects. The concept of therapy derived from medical science (curative treatment) does not cover the complicated function of the penal norm system. And the very restricted role Kinberg assigns to criminal law within criminal science does not tally with the fact that, after all, it is the criminal law that decides what is criminal and thus the whole subject-matter of all the disciplines of criminal science.

More correct than this tabular survey is a division according to which the main branches of criminal science are substantive criminal law, criminal procedure, penology, criminology and penal policy, *vide* the table on page 17 indicating a number of sub-divisions.

The designation "criminalistics", frequent especially in early criminology, refers in particular to the technical procedure and offenders' tools and the corresponding means of detection, but is used also in other and wider senses; as it often gives rise to misunderstandings, it may well be omitted.

Empirical criminal research, which is thus embodied under the term criminology, covers a number of fields of a widely different nature. No individual is capable of mastering, let alone primarily studying each of these special fields. A comprehensive survey of criminology, however, is a practical necessity. If it is not the result of the team-work of a number of experts, it must, in the nature of things, be widely based on and refer to research results of different special sciences. In these circumstances, any independent value the comprehensive exposition may possess, will be due to the possibilities it affords to individual criminologists of obtaining a complete view of the research contribution provided from many different angles and of undertaking a critical evaluation; in this way the more comprehensive view in connection with general criminalistic expert knowledge may to some extent contribute to an orientation which the individual expert cannot easily provide.

Sub-Divisions.

In criminology a distinction is made between criminal biology and criminal sociology.

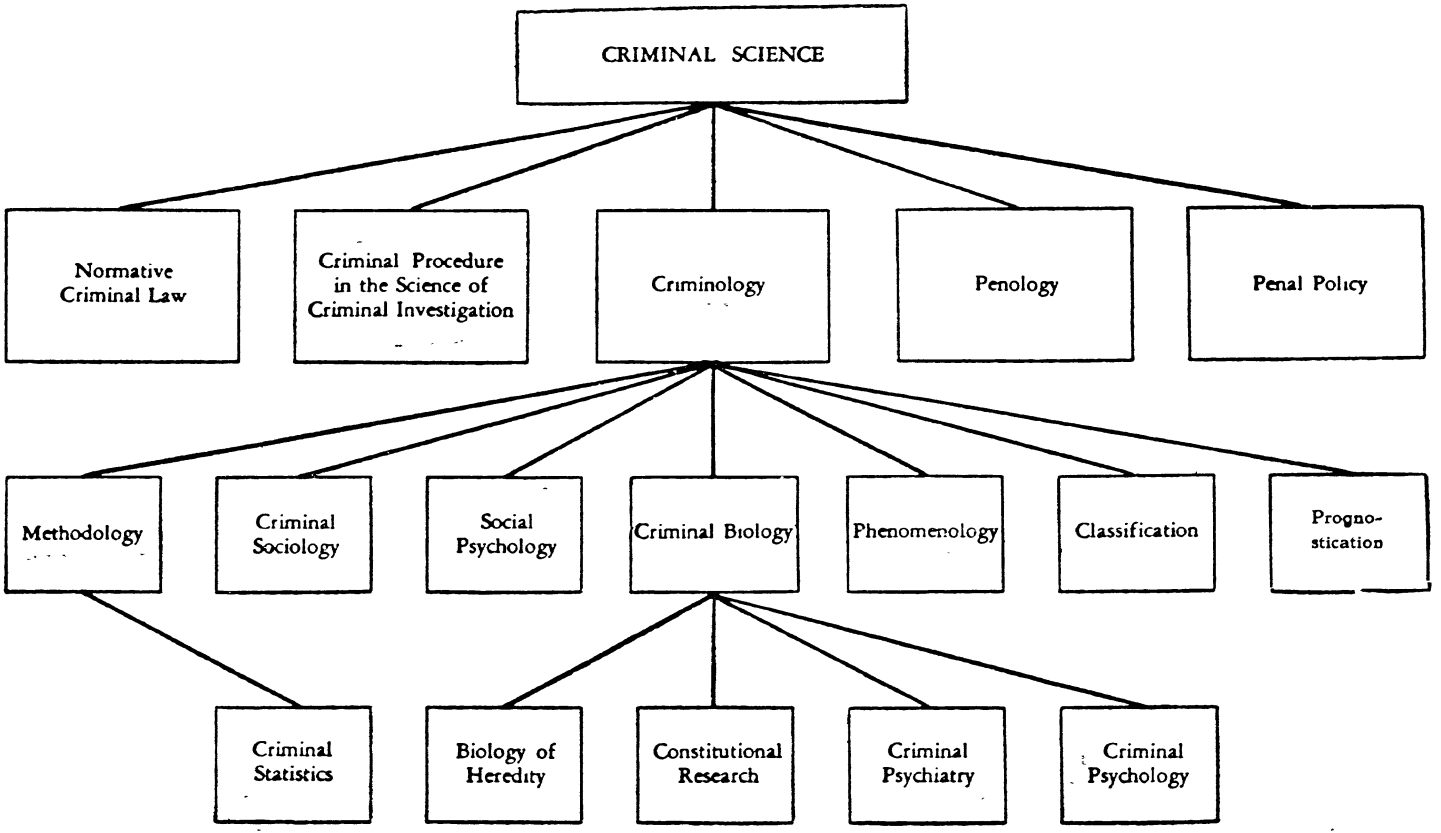
Criminal biology is the part of criminology concerned with the study of the personality of the offender in its interaction with criminality. The interest is primarily directed towards the existence and the significance of hereditary and constitutional factors,

psychic abnormalities and crimino-psychological characteristics. It is the psycho-physical personality as a whole that is being investigated, and criminal biology thus combines the examinations of physical and mental conditions (criminal somatology and criminal psychology) formerly divided into different disciplines. In spite of its designation, the subject is not purely biological. A more correct, but somewhat inconvenient designation would be *criminal individuology*.

Criminal sociology is the science of criminality as a social phenomenon. Research in this field is primarily focussed upon unravelling the inter-relation between criminality and the structure of society, its political and economic systems and other factors in the groupings of human beings. The impact, if any, of climatic and other physical factors on criminal behaviour is also examined.

Some factors may be viewed both from a crimino-biological and a crimino-sociological aspect. This is true, in particular, of such factors as age, sex and race, which *per se* are biologically determined, but the significance of which to criminality depends to a considerable degree on the external conditions of society. As regards method, these factors, like the purely sociological ones, are capable of mass-statistical treatment. For this reason, among others, they have been included in the crimino-sociological part of this survey.

Another difficulty involved in the delimitation of criminal sociology is in determining whether systematically it should include not only general environmental factors with no immediate relation to the individual offender, but also more special and individual factors of environment significant to the shaping of the criminal personality, including more particularly the conditions in childhood and early adolescence. There is no sharp line of demarcation between the two groups of factors, but nevertheless it may be appropriate to separate the latter field of research, which is better suited to an individualistic method of research than to mass-statistical treatment, from criminal sociology proper and


CRIMINAL SCIENCE
Normative Criminal Law
Criminal Procedure in the Science of Criminal Investigation
Criminology
Penology
Penal Policy
Methodology
Criminal Sociology
Social Psychology
Criminal Biology
Phenomenology
Classification
Prognostication
Criminal Statistics
Biology of Heredity
Constitutional Research
Criminal Psychiatry
Criminal Psychology

include it in a special part of the survey *(social psychology), vide* below p. 306 *et seq.,* where the relationship between the criminality of the individual person and environmental factors are discussed.

To the above remarks on definitions and terminology may be added that especially the term *criminal biology* has been used in largely varying senses. This term, already used by *Franz v. Liszt* in his text book on criminal law of 1888, became general in Germany after the publication of *Adolf Lenz*'s Grundriss der Kriminalbiologie, Vienna 1927. As a rule, criminal biology was determined as a branch of biology, *vide* for example from Danish literature *Aug. Goll,* Straffelov og Kriminalbiologi, Udvalgte Skrifter, 1940, p. 93, but gradually the term was used in a wider sense and was at last, by *Franz Exner,* meant to designate criminology as a whole, *vide* this author's Kriminalbiologie, Hamburg 1939, pp. 11 and 20. In recent English criminal science, however, a distinction is maintained between criminal biology and criminal sociology in conformity with the terminology of this survey, *vide L. Radzinowicz and J. C. W. Turner,* English Studies in Criminal Science, II. London 1945, p. 17.

2.
THE RELATION BETWEEN CRIMINOLOGY AND CRIMINAL LAW.

Whereas the criminal law is a theory of *rules of law* (norms), criminology is a theory of *phenomena.* Both disciplines meet in the focus of crime, *i. e.* behaviour which is prohibited under pain of punishment. However, while the principal object of the criminal law, in its classical sense, is to set out what is punishable under the existing law, criminology is not concerned with this object, but turns its attention to the human beings behind the rules of law who infringe the criminal law, and on the environment of these persons.

This contrast, however, is due to a certain simplification. There exists an inter-dependency between the criminal law and criminology that requires some explanation.

The Inter-Relation between the Criminal Law and Criminology.

The recent developments of the criminal law have provided a system of rules of law giving importance to the personality of the offender and relating the nature and the degree of sanction to the latter. Though this development does not imply a radical rupture with the past — special treatment of the criminality of the insane and of children, for example, has been known from time immemorial — the individualisation during the last generation has achieved a significance that is essentially different to the former sporadic efforts; accordingly, criminological concepts and points of view have been embodied in the criminal law to such extent and in such manner that criminal science is now facing entirely new problems and tasks closely connected with criminology.

The Dependence of Criminology on the Criminal Law.

Conversely, criminology is not quite as independent of the concepts and evaluations of the criminal law as the simplifying distinction referred to above may suggest. In principle, it is true, it is a descriptive and empirical, non-normative science, but the *object* of its investigations, "criminality", is not capable of being determined without criteria based on a social evaluation. A close connection with criminality in the legal sense is a prerequisite for a controllable body of experience being available to criminology and is also suggested by the practical purposes of the subject.

This does not imply, however, that the field of criminology, as a matter of course, can be determined according to the criminal-law concept of crime. This concept is not invariable from time to time or from place to place. Hence it is possible to operate with the concept of crime only as it manifests itself in a certain

period within a definite field. As regards attempts to operate with the concept of crime independently of the criminal law, *vide* below pp. 369 *et seq.* and 376 *et seq.*

The relativity of the concept of crime is apparent already at the early stages of the development of law, where the different religious and cultural communities present a multifaceted heterogeneity, as regards what constituted criminal behaviour; *vide Stanislaw A. Adamek:* Die Ideologie des Rechts, Stockholm 1944.

As examples of essential *changes in the conception over long periods* mention may be made of some types of behaviour which are not punishable now, but which formerly were subject to severe penalties, such as in Denmark, blasphemy, cursing and swearing, adultery, homosexuality and other sodomy. In the 18th century, too, strikes were considered as riots which, in the circumstances, might be subject to capital punishment or other severe punishments.

In other cases, such as that of incest in Danish law, the concept of crime has been maintained but considerably restricted.

Conversely, behaviour which is now considered severely criminal has in former periods of culture been considered blameless or has been judged much milder than now. This is true, in particular, of homicides, which under Danish law at the time of the regional laws and up to the time of the Reformation, generally involved only an economic liability (a fine).

Fluctuations from impunity to rigid punishment and back to impunity occur to a large extent under the influence of religious currents and changes in the power of the Church, *vide Stig Juul,* Lov og ret i Danmark, 1942, p. 89 *et seq.*

There are also numerous examples of essentially different conceptions within the same period in *different areas of culture, vide Adamek, op. cit.* p. 79 *et seq.* concerning conflicting views in different primitive peoples, as regards the killing off of old persons.

An impression of the variation of the field of crime within *short periods* is derived from comparing the Danish Criminal Law of 1930 with its predecessor of 1866. If, moreover, one examines the criminal provisions of special acts outside the Criminal Law, it will be seen that the recent development is characterised by a large increase in the number of punishable acts. Technical and

social development, in particular, has given rise to a multitude of new conditions of life, resulting in legal regulation under pain of punishment.

Finally, a comparison of the penal codes of *different countries, but within the same level of culture,* shows essential differences, as regards the behaviour which has been made criminal: the field of the individual concepts of crime thus varies; *vide* for example, as regards larceny and other crimes against property, *Torp,* Nogle Spørgsmaal vedrørende Berigelsesforbrydelserne, 1918, p. 7; different principles apply to the general conditions of criminal liability (minimum age of criminal responsibility, imputability, etc.), attempts and complicity — in both these latter respects Danish law goes further toward criminalisation than is the case in neighbouring countries; there are differences in the very catalogue of crime; examples hereof are to be found particularly among the political and politically coloured crimes, but exist also among general civil offences such as homosexuality which in a number of legal codes (English, German, Russian (since 1934) etc.) is unconditionally prohibited under pain of punishment, while in others, for example those of Denmark and Sweden (since 1944), it is punished in special circumstances only (abuse of children, prostitution, etc.).

Even within one and the same jurisdiction there will always be some types of behaviour the criminal nature of which, under the existing law or by new criminalisation, will be subject to a vacillating conception; in our age examples of such things are criminal abortion, taxation fraud, and blasphemy.

Petty offences, as a rule, are of no criminological interest, and in such respect it is immaterial whether legislation attaches special names to different categories of criminal behaviour (misdemeanours, felonies, etc.) or designates them by the same word. Offences of this nature are, indeed, generally separated from the criminality with which the criminological investigations are concerned, which again means that the field of research is determined by a judgment based on a certain evaluation of the types of behaviour concerned.

As regards the attempts made in criminal science at establishing a conceptual *difference between crimes proper and mere contraventions of police regulations, vide, Stephan Hurwitz,* Kollektive Enheders pønale Ansvar, 1933, pp. 165 *et seq.,* according to which a sharp criterion can be found only in the intensity of punishment (quantitative as distinguished from qualitative criterion).

The tables of the Danish *Criminal Statistics* of reported and prosecuted crimes include infringements of the criminal law, but often do not include infringements of *special legislation.* In normal circumstances this distinction is more or less identical with the distinction by a quantitative criterion, as the large majority of the types of behavior coming under the criminal law which have been penalised may be subject to a higher penalty than a fine or detention, while this is the case only exceptionally in respect of infringements of special legislation.

In addition to petty offences, there may be other groups of offences which for special reasons should be separated from general criminology. In particular, the experience of *political abuses of the criminal law* tells against basing criminology uncritically on a purely statute-law criterion.

Even with these restrictions it cannot be considered desirable to tie criminology to an absolute conformity with the existing criminal law. The history and the comparison of law show to what extent the field of crime is determined by *accidental circumstances.* In selecting its material criminology may to some extent counterbalance such accidental circumstances and try to put together what, in point of fact, are related according to psychological and social criteria.

But not only may it be advisable to *leave out* certain fields of criminal behaviour from the field of investigation of general criminology, in particular so as to limit it to more serious behaviour, but also to include criminological types of behaviour which have not been made criminal and groups of persons not covered by the criminal law, so long as these investigations are of

criminalistic interest. It should be required, however, that the terminology of each author be clear and unambiguous.

Kinberg is in conformity with what has been stated when he points out that from a biological view the problem of criminality includes not only those who have already manifested their criminal propensities through criminal behaviour, but also the large group of potential offenders, *i. e.* "criminal characters" who have not yet committed a crime, but who may do so in certain circumstances. *Vide* also *Cyril Burt,* The Young Delinquent, London 1945, pp. 13—16, who, in his examination of vicious children, includes criminal behaviour as well as certain forms of behaviour which offend against no legal enactment. Likewise, *Sutherland,* Principles of Criminology, New York 1947, p. 24, stresses that the criminologist should be completely free to push across the barriers of legal definitions whenever he sees behaviour outside the legal field which resembles the behaviour within.

Criminological investigations are necessarily restricted because *only some of the criminal acts and persons* are detected. This often gives rise to the objection to criminology as a science that it examines only the stupid and clumsy offenders who have allowed themselves to be caught, and so cannot give a true picture of crime. This objection, however, exaggerates the significance of the hidden criminality (*vide* below). But even if it were correct that only the inferior offenders were apprehended, it would, as *Hooton* says, (The American Criminal, Cambridge, United States of America 1939, p. 10) be no more sensible to neglect the study of the latter than to give up studying the hospitalised victims of infantile paralysis, because the majority of children exposed to this disease escape it or are not subjected to hospital treatment.

3.
THE METHODS OF CRIMINOLOGY.

Criminology is an empirical science. Its primary object is to collect material, describe and classify it (criminography). Scarcely any limit to the sources of this material can be indicated. Criminality is part of life; as an empirical phenomenon it may be

considered from a sociological, biological or psychological angle. Information on its forms, extension, causes and nature is to be found in statistical tabular works, prison reports, police returns, collections of sentences, in technical literature and the autobiographies of offenders[1]), in the newspapers and in fiction. But in addition to this information, and of even more importance, the offenders themselves, at any time, present an inexhaustible material to criminological individual and group investigations.

Whereas the sources are thus legion, the value of the scientific investigation will depend on the methods employed for selecting and sifting the means of information.

These methods fall into two main groups: the *statistical,* methods which are related to mass and group investigations, and the *individualistic* methods subjecting the individual offender and his circumstances to a more or less close examination (mental observations, crimino-biological investigations, case studies, etc.).

The statistical and individualistic methods supplement each other and are combined in different ways. None of them pretends to be exclusive. As regards mass investigations, for example of the criminality of a country as a whole or of definite categories of crime or of categories of a comparable nature, a statistical setting and analysis are indispensable. The problems of method relate in this case to the removal of sources of error, the refinement of procedure, etc., whereas there is no question of a radical replacement of the method in favour of a different one. The limitations frequently pointed out as to what is capable of being established statistically do not afford grounds for rejecting statistics, but stress the need for other methods that, unlike statistics, may illustrate individual factors, concrete facts and other causal conditions and changes unreachable by statistics, including sociological developments (changes in the general atmosphere of society, etc.) which do not permit of being expressed in terms of figures. On the other hand it is evident that individual and group investigations which do not ensure a representative

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[1]) *Cf. Max Grünhut,* Penal Reform, London 1948, pp. 166 *et seq.,* with literary references.

selection of material from very wide sources cannot afford the same guarantee against the predominance of accidental factors and against a subjective evaluation, as do the objective results based on large figures which are obtained by more extensive methods.

Statistical Methods.

Statistics are mass observation of facts expressed in terms of figures *(Bonger)*. The method includes collection, mathematical analysis and interpretation of data capable of being expressed in terms of quantity, including the establishment of statistically relevant correlations between various groups of data.

A direct causal explanation cannot be expected from statistics. They reveal, as *W. J. Thomas* has put it, only *symptoms* of unknown causal processes. But in establishing such symptoms the numerical investigations contribute to elicit a great number of criminal factors.

The conception as to how far criminal statistics are capable of indicating the state of crime has been vacillating. In the beginning, claims were no doubt exaggerated; thus from a certain regularity in the criminal figures over a range of years *Quetelet* deduced a stability and *constancy* of actual criminality which subsequent experience has shown to be fallacious. — It has later been recognised, however, that only »*a representative significance*« may be ascribed to statistical figures, as the police and the courts only deal with part of the offences actually committed, *vide* below on the so-called dark number. Even the representative significance, however, has been widely challenged, *vide* for example the pessimistic statement by *Binding,* according to which criminal statistics are but a »manifestation of diligence, as regards the activities of the courts and the public prosecutor from one year to another«. This view, however, is too negative. It is quite true that criminal statistics can give approximate data only and are subject to many sources of error — *Sutherland* even calls

them the most unreliable and most difficult of all statistics, though with particular reference to American conditions — but given sufficient awareness of these defects and sources of error and vigilance against drawing generalising conclusions, valuable material still remains both in the general statistical tables and in the statistics of special investigations. As, more particularly concerns the possibility of making an index of criminality, *i. e.* a numerical indication of the volume of crime in relation to a specified population, reference may be made to *Thorsten Sellin*'s realistic views on the subject according to which such an index can only be based on a few selected crimes especially dangerous to society and in respect of which the maximum co-operation between the aggrieved or interested party and the authorities may be expected.[1])

Of northern European crimino-statistical literature should be mentioned: treatises of *Veli Verkko* in NTfS 1930, pp. 95 *et seq.*, 1937, pp. 91 *et seq.*, 1943, pp. 98 *et seq.*, 1948, pp. 7 *et seq.*, SvJT 1945, pp. 470 *et seq.; Gunnar Dahlberg* in NTfS 1943, pp. 145 *et seq., Karl O. Christiansen* in NTfK 1950, pp. 1 *et seq.* NKÅ 1938, pp. 252 *et seq.*: discussions on the criminal statistics of the northern European countries.

Some Statistical Concepts.

The special statistical methods and the associated concepts which are employed in analysing the data collected cannot be set out here. Their full understanding presupposes a special study. Any non-statistician concerned with criminological investigations must, however, have some knowledge of certain basic statistical concepts appearing time and again in these investigations.

Brief guidance is given in Danish literature by *Kjeld Bjerke* and *H. Colding-Jørgensen,* Statistik i Teori og Praksis, 1941, *Tage Kemp,* Statistiske Metoder i Medicin og Biologi, 1942, *Jørgen*

[1]) MfK 1931, p. 577 *et seq.* and further in Research Memorandum on Crime in the Depression, New York 1937, pp. 63 *et seq.* (The Index Question).

Jørgensen, Psykologi, 1942—46, pp. 569 *et seq.*, Foreløbigt referat af Dr. Rasch's Forelæsninger over Statistik for Pædagoger og Psykologer. With criminological investigations directly in view several English and American works contain instructive accounts of statistical methods, such as *Goring,* The English Convict, London 1919, pp. 37—38, *E. A. Hooton,* The American Criminal, Cambridge, United States of America, pp. 50 *et seq., W. Norwood East,* The Adolescent Criminal, London 1942, p. 19.

Only a summary of some terminologies will be given here.

Suppose that for a criminal population statistics are to be collected of the occurence of some variable characters such as stature, weight, intelligence, etc. Each individual will be examined in such respects and the results of all measurements embodied in curves showing in respect of each character its numerical incidence in relation to its degree.

On the basis of the ratio between the observed values and the number of observations the average is determined (the arithmetic mean often denoted by m).

The mean in itself does not imply whether the majority of the observed values are anywhere near this figure, as is the case in a normal distribution curve (the same thing is true of the *median* which is defined as the observed value that is exceeded by one-half of the observed values and that exceeds the other half). It is necessary to know also the *dispersion* or the *standard deviation* (often denoted by the Greek letter σ (sigma)) signifying the degree of deviation of the observed values from the average. The ratio of the standard deviation to the mean value, expressed as a percentage, is the so-called *coefficient of variation.*

Any population subjected to investigation is a section of a larger population, and the question of practical importance is whether the mean arrived at in the investigation is valid outside the group examined. Experience now shows that in all mean investigations allowance must be made for deviations from the mean arrived at if the population examined were capable of being made infinitely large. These deviations or errors, which are due to the influence of accidental circumstances on any sampling material, are capable of calculation according to a mathematical formula by which the so-called standard error of the mean is determined.

In deciding whether the mean resulting from an investigation

deviates *significantly, i. e.* to such an extent that the deviation cannot be supposed to be due to accidental circumstances, from the mean of a different series, importance is attached to the ratio between the difference ascertained and the standard error; as a rule it is considered warrantable to regard deviations of or exceeding *three times the standard error* as significant.

Of the greatest practical interest to criminology are the statistical investigations inquiring into the correlation between different series of varying data (marks). An example: a population of prisoners on parole are examined on the one hand with a view to such data as age, home conditions, employment and previous criminal record, and on the other hand with a view to recidivism. The statistical object then is to indicate whether a correlation[1]) may be ascertained between marks of the former and of the latter nature. It is possible that variations occur independently one of another in the series compared (no correlation), or that variations in one series are balanced by variations in the same or the opposite direction in the other series (positive and negative correlation respectively). The degree of correlation is capable of being expressed mathematically in a coefficient of correlation between 0 and 1.

Different Types of Criminal Statistics.

Criminal statistics may analyse *mass data* or data derived from *small groups of observation* of a sampling nature; they may relate to data concerning *crimes* or concerning the *personal qualities and circumstances of criminals;* they may be *static,* being concerned with criminality at a given time, or *dynamic,* illustrating the trend of criminality from one period to another.

The data to be compiled in general statistical tabular works on the basis of reports from the authorities should be of a rather simple nature (easy of ascertainment and classification). For example the Danish general Criminal Statistics include: the criminal cases tried by the courts (Court Statistics), the number of reported crimes (Police Statistics), persons arrested and charged,

1) A correlation between two factors does not show that the one is the cause of the other; both may spring from a deeper common factor.

the nature of reported and prosecuted crimes, the incidence of crime by place of conviction (as a rule depending on the place of perpetration), the place of birth, sex, age, marital status, recidivism, suspended sentences, etc. of the convicted persons. Foreign statistics of a similar nature sometimes include information on creed, education, economic conditions, alcoholism, etc.

Ferri has made a distinction between the crimes ascertained by the courts *(delinquenza legale),* the crimes known to the police *(deliquenza apparante)* and the actual crimes *(deliquenza reale).* Whereas, formerly, importance was attached to the Court Statistics, in recent literature prominence is given to the Police Statistics as the truest indication of actual criminality. This development is partly due to the increasing number of charges being withdrawn in the recent administration of criminal justice.

In American criminology in particular, the small percentage of the crimes ascertained by the Police which lead to prosecutions is also emphasised. According to *Wood and Waite,* Crime and its Treatment, New York 1941, p. 212, the percentage of convictions following cases reported in Detroit in 1933 was 2,7 for auto thefts, 11.5 for larceny, 13.3 for burglary, 15.2 for robbery, 16.4 for rape, 55.1 for manslaughter by negligence, and 74.3 for murder and non-negligent manslaughter. The discrepancy is obvious. The author adds that the offender's chance of success is better than what obtains in many legitimate forms of business enterprise. The same point of view is strongly emphasised by *Hans von Hentig* in his recent work, Crime, Causes and Conditions, New York and London, 1947, pp. 51 *et seq.,* in which he points out the gulf between the figures of the Court Statistics and the number of actual crimes again and again. He also holds that the records of the Police Statistics are far from reflecting a true picture, and attaches a predominant and, seemingly, exaggerated importance to hidden criminality.

The Sources of Error of the Criminal Statistics.

The criminal statistics contain numerous *sources of error,* both as regards the provision of the figures and their interpretation. These errors are more particularly inherent in *international* comparative statistics which are of no great value owing to national differences in the substantive and procedural criminal law, in the efficacy of the administration of criminal justice and of the police and in the reliability of the numerical findings. As regards *individual countries,* a word of admonition should be said against fallacious analyses of causal factors and against erroneous conclusions from the statistical estimate of criminality and its fluctuations as regards the absolute amount of criminality, its relative distribution over the various categories of crime and its upward or downward trend. Some of the factors which can lead astray here are capable of being eliminated. Thus, differences in the number of crimes attributable to changes in the total population may be corrected by setting up a crime index showing the number of offenders and the number of crimes in proportion to the population. In the text to the statistics may be pointed out special factors which in a given period have tended to increase or reduce the number of prosecutions, as well as other special circumstances. Unjustified assumptions of relationship between factors ascertained may be prevented to some extent through modern statistical methods of correlation.

In two important particulars, however, there will still be limitations that must be borne in mind: 1) As mentioned above, a causal explanation cannot be based directly on statistics[1]); the latter establish individual factors only, not the criminal mechanism itself. 2) Allowance should always be made for *hidden criminality* varying according to time, place and nature of offence, *i. e.* the

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[1]) *Sutherland,* op. cit., p. 6, mentions as an example that according to American statistics men are ten times as criminalistic as women, but they are also five times as likely to be killed by lightning, and the statistics explain one thing no more than the other.

figures quoted in the statistics should be supplemented with an unknown quantity, *vide* immediately below.

Hidden Criminality.

The term *hidden criminality* is used here only in respect of crimes actually committed, but not detected. Sometimes, the term "latent criminality" is applied as denoting the moral disposition to criminal acts, which, however, are never committed owing to fear of punishment or because of accidental circumstances, *cf. E. Wulffen,* Kriminalpsychologie, Berlin 1928, pp. 162 *et seq.,* who does not stop here, however, but allows the concept to extend beyond all limits by including the mere psychic potentiality in every human being for committing a crime in a given situation. — Some authors include under hidden criminality or quasi-criminality certain types of behaviour which are not crimes in the strictly legal sense, but which show a lack of a developed social feeling and ethical code; to this group belong *the white-collar criminaloids, Sutherland, op. cit.,* pp. 37 *et seq.*

A number of attempts have been made to throw light on the amount of unpunished crimes proper[1]). In these investigations the dark number is the figure indicating the proportion between crimes prosecuted and crimes committed. It is agreed that it varies considerably in respect of the different types of crime, but otherwise opinions are divided, and the figures given are, as a rule, quite hypothetical, for example when *Heindl,* Der Berufsverbrecher, Berlin 1927, 5. Aufl., pp. 220 *et seq.,* is of the opinion that less than one per cent. of the crimes committed by the dangerous professional criminals are prosecuted or when, as mentioned in the said work, the general dark number, in the light of practical experience, is estimated at 1:300.

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1) *Vide also Hans von Hentig,* Crime, Causes and Conditions, New York and London, 1947, pp. 57 *et seq., Wallenstein* and *Wyle,* Our Law-Abiding Law-Breakers, Journal of Criminal Law and Criminology 1947, pp. 155 *et seq.*

A closer study has been undertaken by *Kurt Meyer,* Die unbestraften Verbrechen. Kriminalistische Abhandlungen, Vol. XLVII, Leipzig 1941. Such circumstances as the inclination of the general public to make reports, the degree of prosecution on the part of the authorities, the possibility of secrecy, etc., are stressed in the case of each criminal group. A number of special sources of information are considered in respect of different categories of crime, such as the statistics on thefts in large undertakings, department stores and railways, the data of the insurance companies relating to the number of fires in good and bad times "enquète" material on the extension of homosexuality, etc. Of the author's results may be mentioned: hidden criminality is considered of no great significance in the case of wilful murder; the dark number is estimated to be 1:10 for infanticide, 1:100 for criminal abortion, 1:20 for simple larceny, 1:8 for grand larceny, 1:5 for robbery, 1:20 for fraud, and 1:9 for arson. Taking everything into account, the author is of the opinion that the dark number is largely capable of calculation and that conclusions may be drawn from the Criminal Statistics to the actual criminality and its fluctuations. — The figures stated must be accepted with considerable reserve, even as regards the field and the period to which the investigation relates; in any case they have no general validity, but are of interest as a guide.

The following more sporadic sources of information concerning the dark number may be mentioned: *Kinberg et alii,* Incestproblemet i Sverige, Stockholm 1943, p. 43, who state that while some authors presume that but a few per thousand of the cases of incest are detected, others take it that up to 60 per cent. become known. *Erwin Stransky,* who states according to Kinberg that nine out of 176 neurotic women were declared to have been the object of incest or attempted incest, but that a charge had been brought in one case only. *Hans Kruse,* MfK. 1940, p. 33: who estimates the number of cases of cruelty to children being brought before the courts at 5 per cent. of all cases reported to the

Society for the Prevention of Cruelty to Children. — *Koopmann,* MfK. 1942, p. 21: who in examining cases of obscene exposure found that the offence had been committed 15 to 30 times before intervention took place. — *Torsten Eriksson* in Else Kleen, Fången, människan, straffet, Stockholm 1944, p. 86: who states that eight persons were convicted for the transmission of veneral diseases in Sweden in 1940, whereas new cases of infection numbered about 12,000 in the same year.

In particular in the field of criminal abortion, thorough and methodically interesting attempts have been made to determine the hidden cases. According to the report of the Danish Commission on Voluntary Abortion, 1936, pp. 132 *et seq.* there is supposed to be an annual number of ab. 66,000 child births and ab. 7,000 spontaneous abortions, *i. e.* abortions which are not brought about by a physician. Further, the number of deaths due to abortion is supposed to be well over 20 a year. Assuming that these are cases of illegal operation and the mortality in case of criminal abortion being estimated at 1 to 2 per cent., one arrives at the result that the number of criminal abortions must be ab. 1000 to 2000 per year. These figures as well as the mortality rate, however, are open to considerable doubt, and a minority in the Commission consider that the minimum figure of criminal abortions is more likely to be 6,000 and that the actual number may rather be 10,000. The investigation covers the years 1923—1932. During the same years the annual number of women convicted for criminal abortion averaged 7,9, and for the last five years only 3,8. This study may be compared with a recent investigation relating to Germany by *Kurt Meyer, op. cit.*, pp. 20 *et seq.*, who assumes that but 8 to 10 per cent. of all abortions are due to non-criminal causes. While the dark number according to the view of the majority in the Danish Commission is 1:125 to 1:250 for the said 10-year period, Meyer estimates the number at 1:100 under German law, but states that other authors put it at 1:200 or even 1:1000.

By way of comparison it may be stated that *K. Schlyter,* I fosterfördrivningsfrågan, Stockholm and Oslo 1934, provides data according to which there should be no less than 10,000 criminal abortions per year in Sweden while only 47 women were prosecuted, *vide Torsten Eriksson, op. cit.*, p. 85.

As regards the dark number, *vide* further *Ernst Roesner* in

HdwK, II, p. 33, *Stephan Hurwitz,* Politikens Kronik 23. April 1941, reprinted by K. Vedel-Petersen, Danmarks Statistik, 2nd edition, 1946, pp. 483 *et seq.* — As to the significance of the varying dark number to the frequency of recidivism statistically ascertained, *vide M. Kaila* in SvJT. 1946, p. 51.

Individualistic Methods.

Investigations of the characteristics of the individual offender or charged person have, in the beginning primarily been undertaken in the form of *mental observation,* where special reasons afforded ground for questioning his responsibility under the criminal law. As regards the methods of these observations, reference is given to forensic psychiatry. For a long time demands have been made for an extended and improved application of mental observations, but apart from these demands there has been a development towards the provision of more general *crimino-biological investigations* covering not only offenders supposed to be psychically abnormal, but any offender, and which do not confine themselves to the mind of the person concerned, but cover the whole of his psycho-physical constitution. A thorough methodology has been provided with a view to these investigations.

Vide, e. g., Friedrich v. Rohden, Einführung in die kriminalbiologische Methodenlehre, Berlin 1933. The study of the criminal personality must be undertaken according to the method governing the study of constitution. The point is partly to ascertain the "crimino-plastic dispositions" depending, in turn, on an interaction of internal and external causes (etiology), partly to describe the actual picture of symptoms (symptomatology), to divide by types (diagnosis of differentiation) and to form an estimate of the prospects of resocialisation (prognosis).

The crimino-biological examinations, however, are capable of giving but a fragment of the personal background of the crime, if not attended by inquiries into the individual environment of the offender. Hence, they are now being supplemented with *social investigations* — of the nature known in Danish law more

particularly in connection with the application of suspended sentences, *vide* sect. 56 of the Criminal Law. In respect of these combined crimino-biological and social investigations, embodied under the term of *criminological investigations,* there exist detailed instructions, questionnaires, etc. in the various countries.

The most thorough individual examinations, ranging over the whole life history of the person concerned, are called in America the *case study* method, which will be discussed immediately below.

The Case Study Method.

The case study method has its origin in the United States, where it has developed from the questionnaires, etc., of social workers. Its pioneer in criminology is William Healy[1]). In preference to the statistical treatment of a comprehensive material it places the main emphasis on the close investigation of individual cases with a special view to studying the factors underlying the genesis of crime. The investigations range over the whole life history of the persons concerned. They are of very unequal value, among the best being a series of studies published by *C. R. Shaw*[2]), and *D. H. Stott*[3]).

Typical trends may be demonstrated by correlating the investigations of a large number of related individual cases. The investigations are concentrated on specific types of crime, such as incest for the genesis of which very few typical courses of development

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1) Healy's book: The Individual Delinquent, Boston 1917, in which the application of the method to a large number of cases was described, is considered for example by *J. L. Gillin,* Criminology and Penology, London 1927, p. 121, as a new departure in the study of the delinquent.

2) The Jack Roller, Chicago 1930. The Natural History of a Delinquent Career, Chicago 1931; Brothers in Crime, Chicago 1938.

In northern European literature *Andreas Bjerre* has tried in a series of crimino-psychological studies, in particular Bidrag til mordets psykologi, Stockholm 1925, to give an intensive analysis af individual criminal personalities whose characteristics should be typical of large groups. The introductory to this publication contains observations of interest to the methodical procedure in crimino-psychological observations.

3) Delinquency and Human Nature, Dunfermline, Fife, 1950.

may be established, *vide* further *Kinberg et alii:* Incestproblemet i Sverige, Stockholm 1943, pp. 49 *et seq.,* which in respect of the type of method applied makes particular reference to *W. J. Thomas and F. Znaniecki:* The Polish Peasant in Europe and America, 1927. Whether general conclusions may be drawn from studies based on this method depends, as Kinberg says, not on numerical findings, but on the "necessary and uncontradictory connection in the psychological development" (*op. cit.* p. 54). The judgment as to whether this condition is satisfied is admittedly bound to be more or less subjective.

In America the case study method is applied in practice, in particular with a view to judging the individual offender in the case of parole.

Vide further *Wood and Waite,* Crime and its Treatment, New York 1941, pp. 58 *et seq.,* reproducing a table on the subject-matter of the case study, drawn up by the Judge Baker Foundation which has set up a clinic in connection with the Boston Juvenile Court. The main points of the table are: I. *The Crime and its Data.* II. *The Study of the Backgrounds* (family conditions, developmental history, the home and neighbour environment, habits and interests, school history, previous criminal record, etc.). III. *A clinical Study of the Delinquent* (physical conditions, mental conditions, etc.). — The American Prison Society has in 1934 published a Handbook of Case Work and Classification Methods for Offenders, Vineland, N. J.; according to this book case work is "something of an art as well as a science".

In Denmark a detailed criminological schedule forms the basis of the study undertaken by *Stürup* and *Christiansen* of prisoners in the State Prison of Vridsløselille and of psychopaths in preventive detention. Some main headings of the schedule are given here in order to illustrate the nature of such studies:

Age Classes — Nature of Crime — Criminal Careers — Types of Careers — *Social Conditions:* Growing up — Occupational Conditions — Marital Conditions — Social Classes — *The Person: Past History,* including certain diseases, attempted suicide, etc. — Physical type, physical and neurological symptoms, etc. — *Diagnosis:* Psychopathy — Constitutional Type — Neurosis —

Psychosis — Feeblemindedness — Sexuality — After-history, including recidivism after release.

4.
THE HISTORY OF CRIMINOLOGY.

No systematic study of the causes, extension and types of crime and of criminals had been conducted until the *nineteenth century*. However, problems coming under this field of study have interested mankind from the beginning of time and sporadic attempts at criminological views can be traced in the philosophers of antiquity as well as in the thinkers and social reformers of later periods. About the time of the French Revolution these attempts become ever more frequent and approach more and more the methodical study of social and anthropological facts which is the core of criminology proper.

An excellent survey of this antecedent history to criminology is given by *Bonger* (1876—1940), An Introduction to Criminology, London 1936, pp. 26—46.

The Introduction of Criminal Statistics.

The provision of systematic *Criminal Statistics* in France in the beginning of the nineteenth century was historically the prerequisite for criminal science being directed into the study of crime as a social phenomenon. The group of men who instituted criminal statistics and amplified and developed their methods, and among these first of all *Adolphe Quetelet* (1796—1874), are, indeed, called the founders of criminology, and the year 1835, when Quetelet published his work "Sur l'homme et le développment de ses facultés ou Essay de physique sociale" is considered the landmark of criminology. It should be noted, however, that though Quetelet and a number of other statistical sociologists preceded the Italian School dealt with below, they did not, like the latter, make the study of crime their direct and sole task,

nor did they, like the latter, actually mark a new epoch in criminal science.

The institution of criminal sociology and criminal statistics must be viewed in connection with the institution of general sociology (*Auguste Comte* (1798—1857)) and of moral statistics (*A. M. Guerry* (1802—1866)). Among the first crimino-statistical sociologists, apart from Quetelet, may be mentioned *E. Ducpétiaux* (1804—1868).

Cesare Lombroso.

The first great student of systematic criminology is *Cesare Lombroso* (1836—1909). More than anyone else he has lent inspiration to the study, based on the principles of natural science, of criminal individuals and given impetus to empirical research into the causes of crime. Through his publications, which rapidly became famous all over the world, and through the agitation carried on by him and his pupils — the so-called positive or Italian school — at international meetings, in reviews, etc., did the concept of crime as a causal phenomenon come to prevail; he concentrated the crimino-scientific interest in all countries on the criminal personality and other factors susceptible to empirical research in preference to the legal concepts cultivated for centuries, and thus became practically speaking the founder of modern criminology as a sister science to criminal law. On the other hand, it should be pointed out that Lombroso's pre-eminence as regards the new science lies in his having been its founder. Evaluated according to stricter critical principles and measured by newer methods, the greater part of his material is worthless; likewise, his generalising theories as to the significance of the criminal disposition (the theory of the "born criminal"), as to the connection between crime and insanity and more especially epilepsy and the explanation of crime as a regression to former primitive levels of development of human beings *(the atavism*

theory) are not scientifically tenable. The same is true of the majority of his crimino-psychological observations.

Lombroso's most important publications are *L'uomo delinquente,* 1. ediz., Milan 1876, originally a small book of 252 pages, in later editions amplified to a two-volume book of more than 1200 pages[1]), translated into German in 1887, into French in 1888; Il delitto politico, Torino 1890; La donna delinquente, Torino 1893. *Le crime, causes et remèdes,* Paris 1899, translated into German in 1902 and into English in 1911, embodied as the third volume of the last Italian edition of L'uomo delinquente; Genio e degenerazione, Palermo 1907. — A detailed bibliography is to be found in "Crime, its Causes and Remedies", London 1911, pp. 453 *et seq.*

This bibliography, however, only relates to the criminalistic production of L., otherwise ranging over such principal subjects as cretinism, insanity, graphology, spiritism, etc.

Lombroso's first and most important work deals with anthropological criminal studies; in later works he includes comprehensive studies of environmental factors. It is a widespread, but incorrect view that Lombroso attached importance to the anthropological factors only.

Best known is Lombroso's theory of the "born criminal". The quintessence of this theory, as he has gradually developed and modified it, is that a certain percentage of criminals, 35 to 40 per cent., are born with dispositions which, irrespective of external conditions, will make them criminalistic and that anatomic and physiological characteristics are capable of being ascertained in these criminals, *vide* below.

Lombroso's estimate has greatly vacillated. The flimsiness of his theoretical constructions has from the very beginning provoked much criticism, and when detailed anthropological criminal studies

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1) The title of the two-volume book is: *Cesare Lombroso,* L'uomo delinquente in rapporto all'antropologia, alla giurisprudenza ed alla disciplina carceraria. Volume primo: Delinquente-nato e pazzo morale. Quarta edizione. Torino 1889. Volume secondo: Delinquente epilettico, d'impeto, pazzo e criminaloide. Torino 1889.

conducted by other experts *(Baer, Goring)* had concluded in a complete denial of the theory of a criminal type characterised by distinguishing features, his scientific standing was poor for a number of years. During the last few decennia L. has to some extent had a renaissance. Recent criminal biology and psychopathology have in different forms revived the theory of predisposed criminals, and anthropologico-statistical investigations *(E. A. Hooton)* claim to have ascertained anatomical characteristics in a large mass of criminals compared with normal, law-abiding citizens. However that may be, the fact remains that Lombroso still cuts a figure in criminological discussion. No one entertains the idea of relying on him for details, nor of accepting his theories as such. It is recognised, however, that he has ingeniously anticipated essential views and correlations.

Of the comprehensive literature on Lombroso may be mentioned: *Hans Kurella* in MfK, 1906—07, pp. 398 *et seq.*, and ibid., 1910—11, pp. 1 *et seq., Gina Lombroso-Ferrero, ibid.,* 1911—12, pp. 321 *et seq., Courtney Kenny* in English Studies IV, London 1945, pp. 1 *et seq., E. A. Hooton,* op. cit., pp. 11—31.

Criminological "Schools".

With a view to the history of criminology — and of criminal law — a division has been made into "schools" or systems, to a certain extent corresponding to designations used about different doctrines which have been opposed to each other in controversies over the program of penal policy. The *positivistic* (Italian, anthropological, scientific, biological, etc.) school, the principal figures of which, in addition to Lombroso, the psychiatrist, are the lawyers *Enrico Ferri* (1856—1929) and *Garofalo* (1852—1934), is thus placed in opposition to the classical school of criminal law. Another contrast to this school is the so-called *French School* or Lyon School (environment school, sociological school) with *A. Lacassagne,* the forensic medicine specialist, (1843—1924) at the head. The schools which have made it their program to combine biological and sociological views have been labelled schools of *biosociology* or of penal policy, under which first of all *Franz von Liszt* (1851—1919) may be included.

This opposition of different schools with catchword-designations such as "anthropological", "sociological", etc., are more or less misleading, however. As already mentioned, Lombroso has not taken a one-sided anthropological view on the genesis of crime (though in the first two editions of his L'uomo delinquente he seemed to consider the criminal disposition determining for all criminals without distinction) and as regards Ferri and Garofalo it is a fact that they attached great importance to environmental factors along with endogenous factors; in this connection it should be noted that the very terms "criminal sociology" and "criminology" have been established by Ferri and Garofalo respectively.

Hence, it is more illustrative to point out which authors have made a special contribution to the study of individual and social criminal factors than to use the ordinary designations of schools.

The Development of Anthropology and Psychiatry.

The *anthropological science,* important to criminology, has been founded as a rational discipline by the French physician *Paul Broca* (1824—1880). Earlier physiognomic and frenological studies by *Johann Caspar Lavater* (1741—1801) and *Franz Joseph Gall* (1758—1828) among others have preserved historical interest.

The development of psychiatric, more particularly forensic psychiatric research has been of special importance to criminology. Among the first psychiatrists to have contributed to the study of abnormal criminals, mention may be made of *Philippe Pinel* (1745—1826), *J. E. D. Esquirol* (1772—1840), *J. C. Prichard* (1786—1848), and *B. A. Morel* (1809—1873). The founder of criminal psychology is considered to be *Prosper Despine* (1812—1892).

Criminology and Ideology.

In its first phase — from the appearance of the positivistic School in the 1870's and up to recent years — criminology has been a *controversial school* with a definite *ideology* and a definite *programme of penal policy* directed against the assumptions of

the "freedom of the will", "irresponsibility" and "revenge" as basic concepts in the criminal law, and *towards* the rational repression of crime by eliminating its causes, and by treating offenders not according to their guilt but their dangerousness.

This programme has been widely put into practice. In all recent criminal laws the results of positivism manifest themselves in individualising measures taking account of the peculiarities of offenders. However, final results cannot be said to have been achieved in the field of penal policy, nor has the ideological contest between deterministic and spiritualistic doctrines come to an end.

As regards scientific criminology, any program should be rejected other than one which merits the designation "positivistic" as opposed to speculative school, *viz.* that the research should be an impartial empirical research based on observation and experiment.

Part II:

THE BIOLOGICAL BACKGROUND OF CRIMINALITY

5.

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tialities inherited, while individuality signifies the propensities developed. Individuality — "the I-factor" *(Kinberg)* — is no purely endogenous phenomenon, but a product of disposition and the environmental factors having influenced and formed the disposition in the course of time. The use of this terminology, however, is but rarely consistent in the theory on the relations between endogenous and exogenous factors. When disposition and environment are discussed here, the reference relates to the developed disposition, too.

Environment.

The concept of *environment* is used in different senses, more often than not vague and uncertain. In the field of criminology, *Exner*[1]) and *Kinberg*[2]), in particular, have contributed to a more precise definition of the concept.

Like Kinberg, one may distinguish between an *internal,* humoral environment, covering the central nervous system, and an *external* environment: the surroundings of the individual. Discussions on disposition and environment generally have reference to the latter only, and this alone is had in view in the following discussion.

The external environment, in turn, includes partly the *natural* environment (in Kinberg's terminology: the external, physico-cosmic environment influencing the nervous system in a purely physiological way), and partly the *social* environment (the external, psychological environment having a psycho-physiological influence). It is the relation between the environment in this sense of the word and the disposition that has more particularly interested criminologists. As regards history, the environment school has primarily given consideration to the economic components of environment, but the concept also covers the whole of its material and spiritual components.

1) Kriminalbiologie, Hamburg 1939, pp. 28 *et seq.*

2) In particular in the treatise: Miljöbegreppet inom genetisk biopsykologi, Festskrift tillägnad Nils Stjernberg, Stockholm 1940, pp. 147 *et seq.*

In talking of the environment of an individual, it must be recognised, as Exner stresses, that one is dealing with a *relative concept:* the environment in relation to this very individual, and accordingly different from the environment in relation to other individuals having a different susceptibility to outside impressions.

Like the disposition, the environment is a potential factor: it contains a *potentiality* of influence, but the materialisation of this potentiality depends on the combination of dispositions and environment, see below on the interplay of these factors.

The environmental factors may be stationary or temporary (environmental conditions — environmental events). In this connection an important distinction should be stressed between *former* environmental influences having contributed to shape the personality of the offender and *immediate* environmental influences in a given situation. Only with a view to such a situation is it possible to distinguish the environment from the person.

Inter-Action between Disposition and Environment.

There is a continuous inter-play, an indissoluble inter-action, between factors of disposition and of environment.

It has been mentioned already that (former) environmental factors, by their continuous influence on the disposition, contribute to form what we call the individuality or the personality. Conversely, the environmental factors are dependent on the factors of disposition.

In the first place, the environment of a person depends to some extent on his own choice. A distinction may here be made, as does the Belgian criminologist *de Greef,* between *le milieu inéluctable* (such as the child's family surroundings during the first few years) and *le milieu accepté ou choisi:* the general environment of the adult[1]).

Further, the environmental factors may in a large measure

[1]) Introduction à la criminologie, I, Bruxelles 1946, pp. 83—84.

be formed and modified by the person. And the influence exerted by environment on a given person is largely dependent on his susceptibility and other personal qualities. *Kinberg* has said that the environment of yesterday to a greater or less extent is present in the individuality of to-day. The converse, too, is true to some extent: the environment that has surrounded a person for some length of time contains influences of his individuality.

Disposition as well as environment may thus be characterised as dynamic factors functioning mutually. An excellent formulation of their interdependency is given by *Exner* in the following *two doctrines*[1]):

1) How the disposition will develop depends within the scope, on the environment[2]).

2) The environment of a person and the influence of this environment upon him depend, within the given scope, on the disposition.

6.
IN PARTICULAR: "CRIMINAL DISPOSITIONS".

As mentioned above, the legal concept of crime is subject to modifications. It would be absurd, of course, to interlink a biologically determined disposition with a legal concept varying according to time and place. The problem is confined to whether there exist *dispositions for an anti-social behaviour* of a typically criminal nature, *i. e.* of such a nature that in modern cultural conditions it is generally associated with serious penal consequences.

Formulated in this way the question is a separate one within

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1) *op. cit.*, p. 39.

2) The same line of thought is expressed by *J. Devon*, The Criminal and the Community, London 1912, p. 12, as follows: "Nothing can be taken out of a man but what is in him, but there may be a good deal in him which is never taken out"; *vide* also *David Abrahamsen*, Crime and the Human Mind, London 1945, p. 36: "Biological science today maintains that heredity determines what a person can do, while environment decides what he does."

the wider problem of the inheritance of character traits. In the light of our present knowledge it may be said with some degree of confidence that *psychic potentialities may be inherited in such combination that they predispose for anti-social behaviour of a criminal nature*[1]). However, the laws governing such inheritance are unknown. No safe conclusions may be drawn from the existence of crimogenic dispositions in parents or remote relatives, as will be discussed in greater detail below. Conversely, the crimogenic combination may occur in individuals in whose family no crimogenic dispositions have formerly occurred.

This does not imply that the "criminal disposition" must include *positive* factors of an anti-social nature. As often as not there may be a question of the absence of one or several of the psychic components conditioning social adjustment in the normal population, and thus of a psychic *inferiority*.

Anyone committing a crime may, in a sense, be said to have a criminal disposition, as an interaction between disposition and environment always exists. The disposition, however, should not be characterised as criminal unless it presents a great probability for the commission of crime (without unusual external conditions). In other words, *adequacy between disposition and crime* is required.

Extreme Theories of Disposition and of Environment.

It will be seen from what has been stated above that *Lombroso*'s original view that some criminals are "born criminals", *i. e.* persons who, owing to an inherited predisposition necessarily *irrespective of their environment,* become criminals, cannot be sound. It is worth noting, however, that Lombroso himself has made statements which go to show that the theory was not to be taken literally, but that, in an extreme way, it has only expressed

[1]) *Vide,* in this connection, the statement adopted by the Expert Committee of the United Nations: Crime is not inherited as such, but the individual biological endowments are vital behaviour determinants. (World Health Organization. Technical Report Series No. 9. Geneva, 1950, p. 25, cf. p. 39)

a view the correctness of which is being recognised in modern criminology, namely that persons are being born whose dispositions offer a pronounced extraordinary probability of criminality (a predisposition, not a predestination)[1]), *vide* below pp. 174 *et seq.* on criminal psychopaths. Nevertheless, the theory of the born criminal is still asserted in certain quarters in terms still making the disposition all-important, though more often than not with reference to exceptional cases. Generalising statements relating to the hereditary factor as solely responsible for criminality ("les crimes des vivants sont commis par les morts") are hardly ever met with now in criminological literature.

As an example of the role still played by the "born criminal" in criminology, reference may be given to *Rocco*'s Italian Criminal Bill which speaks of "delinquente per tendenza istentiva" (article 104 of the Bill).

Quite as untenable as the extreme theories of disposition are the views attributing everything to environment, for example so as to reduce the disposition to a uniform criminal *potentiality* common to all human beings ("every person is a potential criminal"). These views have in recent years been expressed, in particular, in the psycho-analytical and individual-psychological theories of crime, according to which criminality in its typical forms is explained respectively as the manifestation of a neurotic conflict (feeling of guilt and need of punishment in connection with a repressed Oedipus complex) and as the product of a sociological over-compensation of an inferiority complex.

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1) See, *e. g.*, Crime. Its Causes and Remedies, London 1911, p. 448: "I have observed born criminals occupying high positions in the world, who satisfied their evil propensities in the exercise of their profession, becoming very often, instead of the antisocial beings they once were, useful members of society".

Vide further *Theodor Reik,* Geständniszwang and Strafbedürfnis, Vienna 1925, *Alexander und Staub,* Der Verbrecher und seine Richter, Vienna 1929. — *Alfred Adler,* Praxis und Theorie der Individualpsychologie, 3rd edition, München 1927, pp. 250 *et seq.*

Relative Theories.

It is now more or less generally agreed that the question of disposition and environment in relation to criminality is not an either-or, but a both-and. The difficulty is in ascertaining the relative weight of each group of factors[1]).

Northern European literature has established a *classification* as regards the relation between factors of disposition and environment, which distinguishes *three groups of cases:* 1) where the disposition, the character, the individuality (the I-factor) are considered determining, 2) where the disposition, etc. and the environment (the E-factor) are equally operative, and 3) where the environmental factors are considered determining.

It goes without saying that a classification of this nature, though based on careful observations, must depend more or less on judgment.

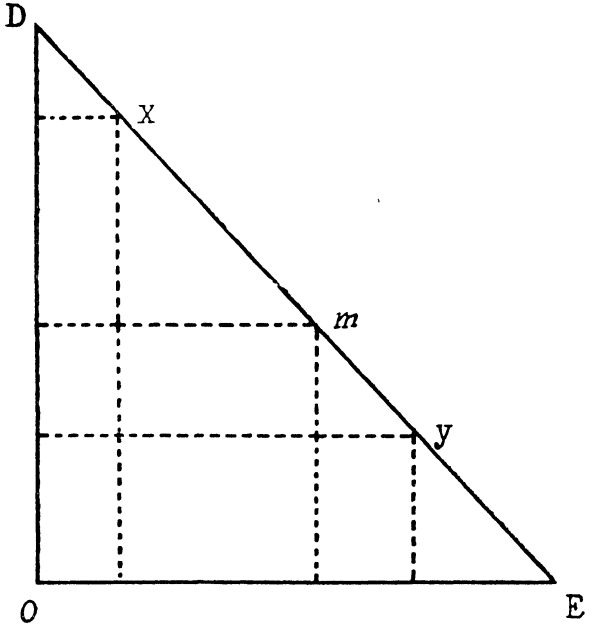
David Lund, Ueber die Ursachen der Jugendasozialität, Uppsala 1918, who *inter alia* gives an account of an investigation of 445 young delinquents (average age: 15 years), includes about 12 per cent. under the disposition group, about 40 per cent. under the disposition + environment group, and about 48 per cent. under the pure environment group. 4 per cent. of the group he considers altogether incorrigible. — *Aschaffenburg,* Das Ver-

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[1]) According to *Hans von Hentig,* Strafrecht und Auslese, Berlin 1914, p. 182, the criminal disposition is inversely proportional to the strength of the crimogenic cause, just as a morbid disposition is inversely proportional to the strength of the pathogenic factor. It should be noted, however, that exact formulations of this kind are liable to give a fallacious picture of the actual interplay of the criminal factors, which are characterised by anything but mathematical regularity.

brechen, Heidelberg 1933, p. 157, rendering an account of Lund's investigation, calls attention to the fact that in his book on the causes of juvenile delinquency (1912) *Hans W. Gruhle* arrives at very much the same result as Lund as regards the disposition cases, assuming that in about 13 per cent. of them the moral deviation would have occurred even in a favourable environment and under good direction.

The best illustration of the flowing transition which, in the nature of things, must always obtain in the relation between disposition and environment, is probably given by the below diagram set up by *Hans Luxenburger*[1]) with reference to the impact on the etiology of mental diseases of these factors, which are here being related to criminal behaviour:



[1]) Psychiatrische Erblehre, München-Berlin 1938, p. 29.

In this coordinate system the ordinate O—D designates the disposition and the abscissa O—E the environment. The line D—E indicates criminal behaviour. Behaviour originating in a purely hereditary factor would be placed in D, and behaviour due to environment alone in E; but in real life these extremes do not occur, being theoretical possibilities only. In point of fact, criminal behaviour is always somewhere between D and E. The relative significance of the factors of disposition and environment is different in any point of the line D—E. The point x for example, has a larger coordinate of disposition and a smaller coordinate of environment, the point m equally large coordinates of disposition and environment, and the point y a smaller coordinate of disposition and a larger coordinate of environment.

It will always be a matter of judgment as to where individual criminal behaviour is to be placed on the line D—E. Likewise it will be a matter of judgment whether it will be assumed that criminality as a whole is "chiefly" due to heredity or to environment. As to the possibilities for supporting this judgment through exact research, reference is made to the following exposition. General statements, which are not based on a controllable empirical material, are as a rule of little value[1]).

Of course the summed up personal impressions of practically experienced criminalists who have made longstanding observations of criminals are of some interest, *vide, e. g., Hartvig Nissen*'s reflections in Svensk Juristtidning, Stockholm, 1945, pp. 461 *et seq.* After a twenty-years' term of office as Director of "Botsfengslet" in Oslo Nissen agrees with *Johan Scharffenberg,* who on the basis of an examination of more than 3,000 prisoners considers that bad inheritance is more important as a crime-producing factor than straitened circumstances. Generalisations of this nature, however, must be accepted with every reserve, *cf.* on the other hand for example the conclusions drawn by authors who examine

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[1]) Nor can anything definite be said as to whether the criminological interest will be centred on studies of environment or of heredity, *vide Morris Ginsberg,* Studies in Sociology, London 1932.

typical environmental factors, such as *Exner,* Krieg und Kriminalität, Krim. Abh. I, Leipzig 1926, p. 14: the war was the strongest possible confirmation of the predominating influence of external conditions on crime and goes to show that the best penal policy will always be a good social policy, and *v. Koppenfels,* Die Kriminalität der Frau im Kriege, Krim. Abh. II, Leipzig 1926, pp. 52—53: The great war and postwar experience bear striking evidence to the decisive influence of environmental factors.

Distinction between the Questions: will there be a crime? and what kind of crime will there be?

It is widely held that the hereditary factor is of primary importance in the question of whether an individual will commit a crime at all, while the environmental factors determine the form the crime will take, *vide W. Norwood East,* The Adolescent Criminal, London 1942, p. 33, *David Abrahamsen,* Crime and the Human Mind, London 1945, p. 36.

Stürup and *Christiansen,* consider that their investigation of 335 Danish State prisoners partially confirms this view, which is said to have been advanced for the first time by *Ferri.* They assert in this survey that the nature of the crime seems to be primarily determined by the environmental factors, while its degree of gravity — having reference to the criminal's career, i. e. the number or length of previous terms of imprisonment or other form of internment — must be supposed to depend on factors of personality and, perhaps to a less degree, on social conditions; likewise, the factors of personality (in particular mentality) are supposed to be predominant in the question as to whether a crime will be committed at all. As regards first offenders, the findings are supposed to show that the more defective the home conditions, the greater is the probability of thefts, sexual crimes, assaults or polycriminal activity, while in the case of relatively favourable home conditions, the offences committed tend to be embezzlement, fraud and "breach of trust". The only direct conclusion to be drawn from the findings is probably that the latter groups of offences against property (embezzlement, etc.) are influenced by the situation more than are the former and, for the greater part, are committed by offenders who are not already handicapped by adverse social conditions. No conclusive

support for a general thesis of the nature of crime, as opposed to the very genesis of criminality and its degree, being determined by environmental rather than by individual factors seems to have been provided by the Danish, nor by the foreign investigations mentioned.

7.
CLOSER STUDIES OF THE SIGNIFICANCE OF THE HEREDITARY FACTOR.

Further data on the criminal hereditary disposition may be provided through a *study of families*. Three methods, in particular, are of interest: the investigation of individual criminal families *(concrete family study)*, the investigation of the family history of large groups of criminals *(statistical family study)*, and in particular the study of *twins*.

The Concept of Hereditary Taint.

The factors on which the interest is centred in these studies are often included under the term "*hereditary taint*" or "*disposition*". The reference here is to such conditions in the family as mental defects (feeblemindedness, insanity, psychopathy, epilepsy), criminality, prostitution, alcoholism, suicides. Other, less marked pathological and antisocial traits are often included, such as psychic peculiarities, relief needs, sometimes also the unfavourable age of parents at the time of conception, etc.

The term *direct* taint is used where the factor concerned is present in (one or both) of the parents, the term *indirect* taint where it is present in remote ascendants only, and the term *collateral* taint where it is ascertained only in the collateral ascendants.

The term hereditary taint is misleading inasmuch as it is used to indicate that the factor in question is present in the family without it being ascertained that there is, in fact, a hereditary relation between the existence of this factor and the criminality of the subject. As a more neutral and more correct designation may

be suggested "*minus factors in the family*" so as to leave the question of heredity open for study in each particular case.

If the ordinary term be retained as a convenient and established terminology, it should at least be emphasised that it is not intended to accept the rather vague *theory of degeneracy* that was prevalent once, and out of which the theory of hereditary taint has developed.

According to the theory of degeneracy advanced by *B. A. Morel* in 1857, insanity, imbecility, crime, suicide, etc. are manifestations of the same basic defect: degeneracy, *i. e.* a hereditary, progressive deviation from the normal type tending towards the extinction of the family. From a nervous temperament and dissipations in the first generation the degeneracy proceeds by epilepsy, hysterics, alcoholism, etc. in the second generation to suicides, psychoses and insanity, in the third generation to end in imbecility and abnormalities (*Rud. Bernhardt*, Studien über erbliche Belastung, Krim. Abh. XII, Leipzig 1936, p. 36). — As regards the physical "symptoms of degeneracy", see below p. 112 *et seq.*

The Trend of Research.

The trend of the studies concerning hereditary taint is characterised more particularly by the following circumstances:

1) While earlier investigations are chiefly concerned with *insanity*, epilepsy, criminality and alcoholism in the family members of the criminals (especially the parents), in recent years *psychopathy* has been stressed as a significant factor. The earlier investigations either take no account of the psychic deviations now designated by the term of psychopathy, etc., or in any case make no distinction between psychosis and psychopathy and are therefore of no particular interest.

2) The earlier investigations generally include criminal groups which are not split up into sub-groups by criteria that in recent investigations are considered relevant to hereditary taint, no

distinction being made at first between recidivists and other *persistent criminals* on the one hand and occasional offenders and other petty offenders on the other hand; if the material has been divided into different groups, the focus has chiefly been upon the different types of crime (sexual crimes, homicides, offences against property, etc.). For this reason, too, most of the earlier investigations are obsolete.

Having regard, in particular, to more recent investigations, a survey and an evaluation will be given below of the material compiled through empirical research within the concrete family studies (9), the statistical family studies (10—16) and the studies of twins (17).

8.
"CRIMINAL FAMILIES"

The first phase in the criminalistic family study is characterised by investigations concerning specific "criminal families", who through generations have shown marked criminal or otherwise anti-social behaviour. The oldest of these investigations dates back to 1877 (*Dugdale,* The Jukes), while the great majority have been published during the first few decennia of this century. All the more wellknown investigations originate in the United States and Germany. The primary object, as a rule, has not been the occurrence of crime, the general interest having rather been centred on accumulations of psychic defects, the moral and social "degeneracy" of the families examined. Several of these family reports, in particular the American accounts on the Juke, Nam and Kallikak families, made quite a stir on their appearance and were widely accepted as a proof of the heredity of moral defects; likewise, they were often pleaded in support of demands for the sterilisation of feebleminded persons and of criminals etc. In recent years criticism has stripped them of most of their value as proofs of heredity.

A brief summary of the most important of these surveys[1]) follows.

As mentioned, the oldest American investigation is Dugdale's account of the Jukes family[2]). It had been observed that a large number of offences were committed by members of the same family, and Dugdale now sought to trace the wrongdoings of this family through a period of 200 years. He claimed to have provided data on more than 700 members of the family, and in the light of these — more or less doubtful — data he characterised more than one-half of them as criminals, prostitutes, vagabonds and the like.

The investigation of this family was extended 40 years later by *Estabrook*[3]) and now included approximately 3,000 descendants. Among these one-half were considered feebleminded, one-third were thieves, prostitutes, paupers or otherwise anti-social. All of the criminals were feebleminded. It should be noted, however, that the number of criminals appeared to be decreasing through the two investigations, namely from 11 per cent. to 6 per cent. of the family members.

Particular interest is attached to the investigation by *Goddard*[4]), the psychiatrist and heredity investigator, of a family which he calles "Kallikak" (from the Greek: kalos: fine, good; kakos: bad, evil) to indicate that it was composed of two branches, one with good and one with bad hereditary qualities. Goddard traced the family through six generations and ascertained that the ancestor had had an illegitimate affair with a feebleminded girl, later on marrying a normal girl of good family. From the first connection

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[1]) See further a number of investigations made in Norway, in particular of vagabond families, *Hartvig Nissen,* Øie for Øie, tann for tann?, Oslo 1934, pp. 32 *et seq.;* Kaspar Flekstad, Omstreifere og sigøynere, Oslo 1949. An investigation made in Denmark of gipsies including the pedigrees of eight gipsy families. — *Erik D. Bartels* and *Gudrun Brun,* Gipsies in Denmark, Copenhagen 1943 — is mentioned below p. 283—84.

[2]) *R. L. Dugdale,* The Jukes. A Study on Crime, Pauperism, Disease and Heredity. New York 1877. 4th Edition 1911.

[3]) *A. H. Estabrook,* The Jukes in 1915. Washington 1916.

[4]) *H. H. Goddard,* The Kallikak Family. New York 1912.

descended the bad line including a large number of morally deficient and anti-social persons, from the second a line of almost exclusively normal and socially valuable citizens.

With these particularly well-known investigations are associated som family studies published by the Eugenics Record Office in New York of the Hill Folk[1]) and the Nam Family[2]), showing the same picture as the investigations already mentioned.

The Hill Folk are descendants of two men who settled in the Hill district in Massachusetts in the year 1800. Many intermarriages have taken place among the descendants of the two ancestors. The families include many feebleminded and criminal persons. — The members of the Nam family are descendants of an ancestor living in Massachusetts in 1760. In conjunction with this family three other families are studied who have often married members of the Nam family, and the burden of these anti-social families to society is demonstrated.

The best-known of the investigations undertaken in Germany are *Jörger*'s and *Mönkemöller*'s accounts of the "Zero"[3]), the "Victoria"[4]) and the "Marcus"[5]) families. These family accounts, too, show a high frequency of minus factors in one generation after the other. The same is true of a series of investigations undertaken during the Nazi epoch, when interest in these family studies was intensified.

Among these more recent investigations may be mentioned *Martin Riedl,* Die Verbrecherfamilie *Kilohm,* Archiv f. Kriminologie, Bd. 93, 1933, pp. 14 *et seq.* The pedigree covers four generations and includes descriptions of 56 family members. Of these

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1) *Danielson* and *Davenport,* The Hill-Folk. Eugenics Record Office Memoir No. 1, New York 1912.

2) *A. H. Estabrook* and *C. B. Davenport,* The Nam Family. Eugenics Record Office Memoir No. 2, New York 1912.

3) *Jörger,* Die Familie *Zero,* Archiv f. Rassen- und Gesellschaftsbiologie II, 1905, pp. 494 *et seq.*

4) *Mönkemöller,* Eine Vagabondenfamilie („Victoria"), Monatsschrift für Kriminalbiologie (Kriminalpsychologie) und Strafrechtsreform, München-Berlin, 1907/08, pp. 529 *et seq.*

5) *Jörger,* Die Familie *Marcus,* Z. f. d. ges. Neurologie und Psychiatrie, 1918.

33 are "im üblen Sinne auffällig", and there are 16 cases of alcoholism, 3 of psychosis, 19 of psychopathy, 11 of feeblemindedness and 17 with a criminal record.

Characteristic of the biological investigations of heredity of this period is *Wolfgang Knorr:* Vergleichende erbbiologische Untersuchungen an drei asozialen Grossfamilien, Berlin 1939. The investigation, carried on under the auspices of the N.S.D.A.P. does not concern itself with criminal persons proper, but anti-social persons characterised by a general maladjustment to social life. The author has taken a particular interest in illustrating the lawfulness of the choice of conjugal partner (the so-called "biological partner rule"). The investigation gives the impression of being a direct plea for the sterilisation of anti-social persons based on family studies.

Criticism.

A critical evaluation of the investigations discussed above and their results shows first of all that it is unwarranted in any case to regard them as affording a *direct* documentation of a very high degree of *criminal* frequency attached to specific families. Actually the great majority of the investigations, though the persons concerned are particularly liable to criminality, socially as well as morally, show criminal figures no higher than those of the average population. Only two of the German investigations show deviating figures.

Dirksen, Asoziale Familien. Deutsche Zeitschrift für Gesundheitspflege, Vol. 1, 1924/25, makes a comparison of the crime rate of a number of families, including: the Kallikak 0.3, the Nam 1.0, the Marcus 2.0, the Hill Folk 4.0, the Jukes 6.0, the Zero 7.0, the Kilohm 30.0, and the Victoria 39.0.

If, however, the findings of such family studies are taken as evidence of the heredity of the minus factors, of the whole of the moral inferiority and of the anti-social attitude found in such large measure in these families, it should be pointed out that the very data underlying these studies are, and in the nature of things must be, subject to much doubt, as soon as the investigator

has gone back a few generations. This is true, in particular, where a diagnosis of feeblemindedness in persons long dead is based on scanty information on their general behaviour. In such respect reference need only be made to the devastating judgment passed on the value of *Goddard*'s study of the Kallikak family in the official British report on sterilisation in 1934[1]).

Even apart from the sources of error inherent in the unreliability of the material on which such family studies must generally be based, a word of admonition should be said against drawing general conclusions concerning hereditary factors being conducive to crime and anti-social attitudes from studies of selected criminal families. And even in the case of the families concerned, it is an open question whether the criminal behaviour is chiefly due to adverse hereditary dispositions or to the particularly bad surroundings, with criminal patterns as examples, in which the children of these families have grown up.

Opinions on these questions, which also arise in respect of the results of the family studies of a higher methodical value discussed below, are very much divided. See, for example, on the one hand *Goring,* The English Convict, London 1919, pp. 264—68, who tries to show that the parental contagion is an insignificant factor as compared with the influence of the inheritance and, on the other hand, *Sutherland,* Principles of Criminology, New York 1947, pp. 85 *et seq.,* who calls attention to the fact that the contagion may relate to the general attitude, and so may have been the determining factor, even when the son has committed other crimes or availed himself of a technique different from that of the father. A reconciliatory attitude is taken up by *Exner,* Kriminalbiologie, Hamburg 1939, p. 154, according to which the environmental conditions of these families are admittedly particularly unfavourable, but according to which the accumulation of criminality, however, is too great to be accounted for by environmental influence alone.

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[1]) *Report of the Departmental Committee on Sterilization,* 1934 (Brock Report), p. 13. It is asserted here that the procedure applied in providing the data is unscientific, the instructions for the studies biased, and it is called a waste of time to make any close analysis of the stories of the Kallikak, Juke and Nam families.

In more recent American studies the main emphasis is decidedly laid on environmental conditions: see thus the most thorough study of criminality within the same family (the so-called Martin family) that has probably been undertaken so far: *Clifford R. Shaw,* Brothers in Crime, Chicago 1938. It is said here (p. 350) of five criminal brothers: "If these brothers had lived under normal environmental conditions, they would probably have had a vocational training, have shown a socially approved behaviour and aquired socially approved ideals with an ease similar to that with which they became experts in committing thefts". *Vide,* also, the book published by the Crime Commission of New York State, 1929: Problem Boys and Their Brothers. Case Studies of Delinquents and Non-Delinquents in the Same Families.

9.
STATISTICAL FAMILY STUDIES

Hereditary Factors as a whole.

The number of studies of large criminal groups designed to illustrate the minus factors in the family are almost countless. The great majority include *the parents* of the criminals, others are chiefly concerned with the *offspring* of the criminal persons, and others again concentrate on the criminal record of *siblings,* including the studies of *twins.* (below pp. 97 *et seq.*).

Such studies often provide information on the findings of *hereditary factors as a whole* in respect of each group examined, for example separately for recidivists and for non-recidivists. As a rule, this "*general hereditary taint*" includes the factors of insanity, feeblemindedness, psychopathy, alcoholism and criminality, but the delimitation of the individual factors varies, and sometimes the group of factors is extended or reduced. Accordingly, general information on "general hereditary taint" is not very reliable.

As an example of the great variations of the data concerning "general hereditary taint", even in a very special material, mention may be made of the investigations on psychopathic obscene

exposure reported in MfK 1942, pp. 21 *et seq.* While *Staehelin* assumes hereditary taint to be present in 74 per cent. of the cases, *Koopmann* indicates hereditary taint in 39 per cent. of the cases; as regards obscene exposure committed by feebleminded persons, however, the figure is 80 per cent.

More recent investigations for hereditary taint directly from the parents among recidivists, reveal the very high level of between 40 and 85 per cent.

A few important findings may be quoted for information:

J. Hartmann[1]) found direct hereditary taint in *45.2 per cent.* of the 199 prisoners in the cantonal penal institution of Zürich. By way of comparison, Hartmann quotes figures from investigations conducted by *Koller* and *Diem* on hereditary taint — with mainly, but not exactly the same factors of hereditary taint — in large groups of *non-criminal* persons, in part insane, in part normal. In respect of the latter Koller found the percentage of direct hereditary taint to be 28 and Diem 33, a considerably lower percentage than Hartmann found in the criminals[2]).

According to an investigation made by *Friedrich Stumpfl*[3]) 66 per cent. of the fathers of 195 grave offenders were psychopaths or drunkards or criminals (or had several of their qualities), while only 25 per cent. of the fathers of mild offenders came under any of these categories.

Martin Riedl, who examined direct and collateral hereditary taint in 200 early criminals and in 200 late criminals[4]), gives the following table of the total hereditary taint and of its incidence in respect of individual defects:

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1) Über die hereditären Verhältnisse bei Verbrechern. MfK 1904/05, pp. 493 *et seq.*

2) *op. cit.*, pp. 496—97, *cf.* p. 519.

3) *Friedrich Stumpfl,* Erbanlage und Verbrechen, Berlin 1935, p. 287.

4) *Martin Riedl,* Studie über Verbrecherstämmlinge, Archiv f. Kriminologie, Bd. 93, Berlin 1933, p. 238.

	Altogether deficient %	Mentally deficient %	Insane %	Psychopaths %	Alcoholics %	Criminals %
Fathers of late criminals (200) ...	43.0	3.0	1.5	22.5	23.0	7.5
Fathers of early criminals (200) ...	85.0	4.5	3.5	60.0	48.5	36.0
Siblings of late criminals (809) ...	16.0	3.8	1.0	9.7	3.5	5.7
Siblings of early criminals (918) ...	43.9	13.6	1.3	22.0	6.2	18.2

The findings of the latter investigation, according to which 1) the rate of direct hereditary taint is twice as big in respect of the grave as of the mild criminals, 2) differences in the same direction are reflected in the siblings, and 3) variations in the direct hereditary taint are particularly pronounced in respect of psychopathy, alcoholism and criminality, but on the other hand are insignificant as regards insanity and feeblemindedness, agree well with other, more recent findings, in particular in German criminology.

Individual Hereditary Factors.

The material including all factors of hereditary taint in one group contains elements too heterogeneous to be illustrative of the significance of the hereditary components in the causation of crime. It may give an impression, even a strong impression, of the total weight of the crimogenic conditions in the families of certain criminals. The relative significance of these conditions and the question of their hereditary and environmental nature, however, can be unravelled or illustrated only through an analysis of each individual factor concerned.

10.

THE CRIME RATE OF THE AVERAGE POPULATION.

On the following pages a number of investigations will be discussed concerned with the incidence of *criminality* in the families of offenders. An evaluation of these figures presupposes a knowledge of *the crime rate of the average population*. As a rule the investigations concerned do not afford such information and, indeed, it must be recognised that the determination of the general crime rate involves considerable difficulties. A point to be kept firmly in mind is this. The statistical analyses of the question can of course take account only of detected, not of hidden criminality, and investigations based on general criminal statistics may have to consider the number of convictions only, thus ignoring all the crimes which admittedly come to the knowledge of the police, but in respect of which the charge has for some reason or other been withdrawn. Further, in determining the crime rate it is a general rule to ignore petty offences, but the line of demarcation in respect of the latter is traced differently by different investigators.

Among the somewhat older investigations of the question may be mentioned *Goring*'s statistical analysis in The English Convict, London 1919, pp. 157 *et seq.* calculating what proportion of all prisoners among the present population of England are first offenders.

In some more recent German investigations efforts have been made to determine the crime rate, in part on the basis of special investigations of representative groups. *Friedrich Stumpfl*[1]), for example, has made a thorough investigation of the crime rate as regards the South-German general population about the year 1930. In the light of the rate of conviction in respect of cousins of the mild offenders of the group, he arrives at the result that the crime rate, as regards the male population over 20 years of

[1]) Erbanlage und Verbrechen, Berlin 1935, pp. 7 *et seq.*

age, petty offences being ignored, is between 2 and 5 per cent.; it should be noted, however, that the group is taken from a chiefly agrarian population. As regards the women, the rate is between 1 and 2 per cent.

No such statistics have been published in *Denmark* so far, but Professor *Hans Cl. Nybølle* has made a calculation (unprinted) on the basis of the general criminal and mortality statistics, according to which the number of contemporary *men* sentenced to imprisonment should amount to about 5 per cent. of the total male population over 15 years of age by the end of the year 1935.

An inquiry into the after-career of school children attending special classes made in Copenhagen in 1946[1]) shows a considerably higher crime rate, not only as regards the special-class children (the mentally retarded), but also in respect of a control-group of normal school children.

Disregarding a — very considerable — number of petty offences, the crime rate ascertained in the control group of normal persons was: boys 19.7 per cent., girls 0.8 per cent. (as regards the mentally retarded, the corresponding figures were 28 per cent. and 9.1 per cent.). In comparing these figures with those hitherto mentioned it should be noted, however, that the economic and social conditions of this group are very poor, and that the data on criminality are based on more detailed investigations.

In addition to these calculations of the crime rate, calculations have also been made of the so-called criminal *risk*. While the crime-rate investigations indicate the number of living convicted persons (as a percentage of the population above the age of criminal responsibility or of certain specified groups), the risk investigations indicate the statistical possibility of members of a population with a certain crime rate of being convicted, *provided*

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1) See *Holger Rasmussen* and *Karl O. Christiansen,* Hjælpeskoleelevers senere skæbne, Hjälpskolan, Uppsala 1946, pp. 79 *et seq.* and 93 *et seq.*

they live through the whole period of risk. It should be taken into account that the risk, expressed as a percentage, will be somewhat greater than the crime rate and, consequently, no direct comparison may be made between the percentages of investigations of the crime rate and of the criminal risk, as sometimes happens.

Of the northern European investigations of the criminal risk mention should first be made of a treatise by Gunnar Dahlberg in NTfS 1943, pp. 145 *et seq.*

Dahlberg discriminates between two principal questions: 1) What proportion of a population commits crimes? 2) What is the intensity of criminality in the group committing crimes, and how often do persons of this group commit repeated crimes? There exist no methodically correct investigations of these problems in the Criminal Statistics. In this investigation the author deals with the former problem only: the risk of a first offence.

The investigation has been conducted on the basis of the crimes included in the Swedish Penal Records for the year 1937, *vide* p. 146. A distinction is made between the risks of the different age groups; after the age of 50 to 55 the risk is almost negligible. Hence, the figures of the risk up to 70 years are not much higher than in respect of the age groups up to 55 years.

Among Dahlberg's results should be mentioned: the risk to a *man* living to the age of about 70 of being *convicted* for a crime included in the Penal Records (imprisonment, as a rule) was slightly *over 7 per cent.* in Sweden in the year 1937. In respect of men who at the commission of their crime were residents of *towns,* the risk was approximately *11 per cent.,* while in respect of men *living in the country* it was approximately 5½ per cent. As regards *women,* the corresponding figures were: criminal risk for the whole country *0.8 per cent. (i. e.* about one tenth of the risk to men), in the towns well over 1 per cent., in the country well over ½ per cent.

In Denmark the crime rate in respect of a more limited popula-

tion group, *viz.* the population of Bornholm, has been calculated by *Kurt H. Fremming,* whose investigations, on the other hand, are based on a material subject to a higher degree of control than that of the general Criminal Statistics[1]). The criminal risk (of offences of a more serious nature, corresponding more or less to those dealt with in Dahlberg's investigation) was here found to be approximately 3 per cent. for *men* and well over ½ per cent. for *women,* for an age group up to 55 years. Assuming that the criminality of the urban population of Denmark, like that of Sweden, is something like twice that of the rural population, and that Fremming's material on the whole is considered as belonging to the latter group, this investigation suggests that the criminal risk in Denmark, as regards the urban population, is about 6 per cent. for men and 1 per cent. for women. It is questionable, however, whether the Bornholm material is representative of the country as a whole, being probably below the average as regards criminality.

According to the investigations made so far, it is impossible definitely to indicate the criminal frequency or risk in respect of the Danish population. It is probable that no less than 5 per cent. of the male urban population and up to 20 per cent. of the destitute male population of the city of Copenhagen at the present time have been convicted — or what is regarded as the equivalent (in particular withdrawing the charge subject to care by the child welfare authorities) — of a grave offence. As regards women and the rural population, the figures are far lower[2]).

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[1]) *Kurt H. Fremming,* Criminal Frequency in a Danish Rural Area, Copenhagen 1946.

[2]) As to the ratio of men's criminality to that of women, see below pp. 269 *et seq.* and as to the areal and regional distribution of crime pp. 252 *et seq.*

11.

CRIMINAL FREQUENCY IN THE FAMILIES OF OFFENDERS.

The figures mentioned in criminological surveys relating to the criminal record of family members in respect of various groups of offenders, *differ much*. Sometimes the figures are lower than what would be supposed to correspond to the general crime rate of the average population. For example *Geill* traced "criminals among the ascendants"[1]) in only 44 of the 1742 criminals he examined (2.53 per cent.) and *Kemp*, in his material of prostitutes, only traced criminality in the fathers in 2.1 per cent. of the cases[2]). In findings of this nature, however, allowance must be made for the significant source of error due to the fact that the data are based on the rather unreliable information provided by the subjects themselves.

Conversely, now and again one strikes upon extremely high figures, little suitable as a basis of comparison, because the concept of criminality is extended beyond the ordinary scope or because other special conditions make themselves felt.

For example, *Cyril Burt*'s investigation reveals a criminal record or immorality in the families of 54 per cent. of the delinquent children, as against 17 per cent. in the non-delinquent control-group. The author adds, however, that only 11 per cent. of the delinquent children had relatives who had been *sentenced* for crime[3]).

Glueck, 500 Criminal Careers, New York 1939, pp. 111 *et seq.*, found an extremely high crime rate in the families of probationers. In 207, or 51.5 per cent. of the 402 families in respect of whom reliable information was available, sentences had been pronounced for various offences, including drunkenness. Apart from 9 cases, the offences had been committed by parents or siblings and, as a rule (in 75 per cent. of the cases), the offences were graver than

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[1]) *Christian Geill*, Kriminal-antropologiske Studier over danske Forbrydere, 1906, p. 88.

[2]) *Tage Kemp*, Prostitution, 1936, p. 50.

[3]) *Cyril Burt*, The Young Delinquent, London 1945, p. 52.

punishable drunkenness. The author finds proof in his material of the existence of *a family tradition of lawlessness and vice,* but no hereditary tendency towards criminality (p. 112). — The investigation comprises no control-group. The authors presume, however, that the crime rate of the general population in Massachusetts or the United States is no more than 10 per cent. — In the book by the same authors: One thousand Juvenile Delinquents, similar, even somewhat higher, criminal figures are ascertained in the families of young delinquents, *vide op. cit.*, pp. 79 *et seq.*

Of greater interest from the point of view of method are some investigations based on a *more restricted concept of criminality* (as a rule by the criterion: sentenced to imprisonment) and tending to illustrate the question of heredity by *comparing different groups.*

1. Firstly, there are here several statistical demonstrations of a progressively increasing criminality in *groups of offspring,* according as (a) *neither parent has been convicted,* (b) *the father or the mother has been convicted,* (c) *both parents have been convicted.*

According to *Goring*'s investigation, the crime rate of the three groups is 47.3, 53.8 and 60.7 respectively. The author collates these figures with the rates to be expected under Mendel's law of heredity and considers that, though the criminal figures deviate essentially from the Mendelian ratio," they seem to suggest that crime has an hereditary nature"[1]).

Lund's investigation shows an even greater rise through the three groups. The rates are here given as 44.6, 55.1 and 86.7. This part of the investigation relates to 128 Swedish families. The subjects are individuals having committed criminal offences as a child or young person and having accordingly been placed in a reformatory; after having been discharged at the age of 17 to 18 years, they have been convicted at least twice. The families of these persons have been traced through three generations[2]).

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1) *Charles Goring,* The English Convict, London 1919, p. 256.

2) *David Lund,* Über die Ursachen der Jugendasozialität, Uppsala 1918, p. 270.

From such results it has been considered warrantable to draw a safe conclusion of heredity as the sole causal factor, assuming the equality of environmental conditions. But even if these families, upon the whole, belong to the same very poor class of society, there are essential differences, however, as regards their social and moral environment as well as their psychical defects. It appears from Lund's investigation that these conditions are most unfavourable in the group in which both parents have been convicted, and most favourable in the group in which neither parent has been convicted.

2. This question has also been made the subject of investigations of correlation; *Goring,* for example has made such examinations in respect of the offspring of 1,000 criminals and of 1,000 non-criminals[1]). He finds a statistically significant correlation between the criminality of parents and sons. Among brothers, too, is found a significant increase of criminality. *Lund* has made calculations of correlation in a group of more than 3,000 children[2]). The coefficient of correlation of the ratio between the criminal frequency in the parents and the frequency of criminality and viciousness in the children was 0.34.

By way of comparison it may be stated that the corresponding coefficient concerning alcoholism in the parents and viciousness in the children was only 0.13 according to the same investigation. On the other hand, the coefficient of criminality was relatively small as compared with the coefficient concerning the occurence of psychic inferiority in the parents and in the children (0.75).

3. The great majority of recent investigations are concerned with criminality in the *parents* of the criminal subjects, sometimes also in their remoter ascendants, *siblings and cousins.* Special consideration has been given to the question whether essential variations in the criminal record of the family-members are capable of being demonstrated, according as the subjects have

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1) *op. cit.,* pp. 258 *et seq.*
2) *op. cit.,* pp. 279 *et seq.*

committed occasional offences only or must be characterised as persistent and grave criminals (or, in respect of children, as highly vicious). A hereditary criminal disposition may be present in the latter group only. Substantially higher criminal figures in the families of this group are widely taken as evidence of the existence of such a disposition.

Particularly detailed investigations in this field have been conducted by German authors in the 1930'es. The value of these investigations is considerably reduced by their unmistakable tendency to establish a biological foundation of heredity for the repression of crime, with a particular view to sterilisation. A brief account of some of the most important works follows.

Schnell's and *Schmid*'s investigations of the criminal record of the family members of 502 recidivists[1]) and of 502 first offenders[2]) respectively show essential differences in the criminal taint. In this connection it should be noted that the investigations are based solely on documents from the Bayerische Kriminalbiologische Sammelstelle. A comparison of the parallel investigations of the two authors gives the following results: Among the fathers of the first offenders the number of criminals was 8.2 per cent., among the fathers of the recidivists 29.4 per cent. As regards the mothers, the figures were 1.6 per cent. and 9.8 per cent. respectively. If the criminal record of the near relatives is included, the total result is that the families of the recidivists showed a criminal record in 55.2 per cent. of the cases, while the percentage in respect of the families of the first offenders was 17.3.

The detailed investigations made by *Friedrich Stumpfl*[3]) point the same way. Particular importance has been attached to these results, *inter alia* because they are not based solely on documents, but on more comprehensive investigations instituted by the author, which should make for better control. However, the possibility of arbitrariness inherent in the author's determination of the criminal

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[1]) *Karl Schnell,* Anlage und Umwelt bei 500 Rückfallsverbrechern. Kriminalistische Abhandlungen, XXII, Leipzig 1935, pp. 44 *et seq.*

[2]) *Albert Schmid,* Anlage und Umwelt bei 500 Erstverbrechern. Kriminalistische Abhandlungen, XXIV, Leipzig 1936, pp. 23 *et seq.*

[3]) Erbanlage und Verbrechen, Berlin 1935, pp. 4 *et seq.*, 284 *et seq.*

figures should be pointed out. He has ignored "petty penalties" but has applied no sharp criteria as to what should be considered as such. Thus, begging and the like are included under the offences counted as penalty, though the penalty has not exceeded one day. As regards crimes of violence, account has been taken of the nature of the deed in each individual case. Also in respect of other offences a subjective judgment has been exercised, see p. 6: "the cases have always first been weighed and then counted".

Of the fathers of the grave offenders 28.4 per cent. had been convicted, of the fathers of the mild offenders 4.0 per cent.

Of the mothers of the grave offenders 14.3 per cent. had been convicted, of the mothers of the mild offenders 0.6 per cent.

Of the brothers of the grave offenders 37.0 per cent. had been convicted, of the brothers of the mild offenders 10.8 per cent.

Of the cousins of the grave offenders 17.5 per cent. had been convicted, of the cousins of the mild offenders 5.1 per cent.

Stumpfl has also enquired into the nature and the frequency of criminality in the two groups of families. He sums up the principal results of his investigations in the following three doctrines (p. 5):

(a) The relatives of the recidivists (the grave offenders) include more criminals than do the relatives of the non-recidivists (the mild offenders).

(b) The relatives of the recidivists include more recidivists than do the relatives of the non-recidivists.

(c) In the relatives of both groups who have been convicted once, more gross methods of crime are found in the relatives of the recidivists than in the relatives of the non-recidivists.

In this connection may be mentioned also a number of investigations outside Germany concerning the criminal record of relatives of vicious and delinquent children and young persons, showing increasing criminality in the family members of the more seriously affected groups.

Vide, e. g., the official American investigations: *From Truancy to Crime.* A Study of 251 Adolescents, New York State Crime Commission, 1928. The Study relates to truants without and with further records of crime, and shows the following frequency of criminal record in the family members[1]):

[1]) According to *A. E. Wood* and *J. B. Waite:* Crime and its Treatment, New York 1941.

Truants with no further record of crime: criminal record for other family members in 43 per cent. of the cases.

Truants who later developed a record of delinquency: criminal record for other family members in 50 per cent. of the cases.

Truants who later became misdemeanants: criminal record for other family members in 66 per cent. of the cases.

Truants who later committed felony: criminal record for other family members in 83 per cent. of the cases.

In spite of the errors and the unreliability inherent in such investigations they are, however, compared with another, *indicative of a certain connection between serious criminality in large groups and criminal records in the relatives of such persons.* However, as long as the possibility of an environmental connection exists, there is no evidence that this connection is due to an hereditary disposition. The fact that the relatives of the persistent or grave criminals show a higher crime rate than do the relatives of the causal offenders *may* be accounted for by the generally more unfavourable environmental factors, especially the criminality of near relatives, pertaining to the former groups which may have created a *downright* criminal tradition.

According to David Lund, *op. cit.* p. 35, the existence of unfavourable environmental factors, apart from criminality, was most frequent in the group with the highest rate of criminal taint. The environmental difference, however, was smaller than the other difference in the various groups, and the author draws the conclusion that there must be characterological differences in the families of the different groups and that the cause of the antisocial character should be traced to an hereditary disposition.

The interest thus centres on the investigations tending to illustrate the criminality of family members in circumstances permitting the family factor to be *separated from the environmental factor.*

Attempts to separate the Hereditary Factor.

1) *Goring* has made various attempts to separate the hereditary factor from the environmental factor in his statistical analyses[1].

[1]) *op. cit.*, pp. 261 *et seq.*

He first examines the correlation between the criminality of husband and wife in his material. This correlation appears to be just as high — 0.64 — as the paternal and fraternal correlation of crime. As it cannot be due to heredity, it seems to prove that the family contagion is the predominant factor. This proof, however, must be rejected because a third relevant factor intervenes here, *viz.* the selective laws influencing the choice of conjugal partner (assortative mating, birds of a feather flock together).

On the other hand, Goring finds a conclusive proof of the pronounced predominance of the hereditary factor in the fact that a significant correlation is capable of being demonstrated between the criminality of father and son, not only where the father's criminality, by its nature, may have been an example and a contagion to the son, in particular as regards stealing, but also in types of criminality where the influence of such example, training and contagion must be considered out of the question, *e. g.* arson and, in particular, sexual crimes (p. 267).

By comparing the correlations of the different types of crimes Goring assumes from this evidence, that the intensity of the hereditary factor in criminality is 0.45 to 0.5 and the intensity of the criminal contagion anything between 0.05 and 0.1 (p. 267), and he draws the following general conclusion from his study:

(a) The criminal diathesis, revealed by the tendency to be convicted and imprisoned for crime is inherited at much the same rate as are other physical and mental qualities.

(b) The parental contagion is, on the whole, inconsiderable, relatively to the influence of inheritance and of mental defectiveness (p. 268).

This whole development is a good example of how exact statistical calculations and acute constructions may lead astray if not attended by general criminalistic experience and common sense. Suffice it to say that the bad, crime-disposing environment need not, of course, exist as a direct example of definite crimes,

but may — and as a rule does — consist in the very atmosphere surrounding the child and the young person[1]).

2. *Rudolf Bernhardt* has made a study of the *criminality of siblings* on the basis of a comprehensive material of documents. He discriminates between the following two groups:

(1) Both parents non-criminal, but *criminality in grand-parents* or other near relatives.

(2) No criminal parents or other relatives.

The author found twice as high a crime rate in the siblings of group (1) as in those of group (2) and considers this difference to be endogenous in character, both groups of children having grown up in non-criminal homes[2]).

3. Some comparative studies of the children and *stepchildren* of grave criminals, undertaken in Germany, appear to be more indicative.

The first of these studies has been made by *Ludwig Kuttner.* The investigations included the children and stepchildren of 208 persons placed in preventive detention. The criminality of both groups of children was above the normal, but was far more frequent in the offenders' own children than in their stepchildren[3]).

The number of "own children" over 14 years of age was 149, the number of stepchildren over 14 years of age 62. In the former group the crime rate was 14.7 per cent., in the latter 9.6 per cent. As regards the number of children convicted more than twice, the difference is considerably greater; in the former group 8.0 per cent., among the stepchildren but 1.6 per cent. The most striking difference between the two groups appears, however, when the male own children over 18 years of age (a total of 36 persons) and the male stepchildren over 18 years of age (a total

[1]) *Vide* more detailed criticism by *Sutherland,* Principles of Criminology, New York 1947, pp. 85 f.

[2]) *Rudolf Bernhardt,* Studien über erbliche Belastung bei Vermögensverbrechern. Kriminalistische Abhandlungen, XI, Leipzig 1930, p. 15.

[3]) *Ludwig Kuttner,* Die Kinder der Sicherungsverwahrten. Kriminalistische Abhandlungen, XXXI, Leipzig 1938.

of 25 persons) are considered. Here the author's investigation shows the following results (p. 27):

	Convicted at all %	Recidivated several times %	Recidivated no less than 5 times %
36 own children	47.2 (17 persons)	27.8 (10 persons)	19.4 (7 persons)
25 stepchildren	20.2 (5 persons)	4.0 (1 person)	4.0 (1 person)

In respect of the girls, too, a great difference is ascertained between own children and stepchildren, but the absolute figures are here very small. Of 39 own children four had been convicted (all of them for theft), of 20 stepchildren only one had been convicted.

From these figures, coupled with data according to which the criminals' own children had failed in school and occupation to a considerably greater extent than had the stepchildren, Kuttner draws the inference that the heredity of a criminal disposition has been proved, and the more so as the criminality of the own children is very similar to that of the father. The author states in that respect (p. 35) that, like their fathers, all the criminalistic own children have proved early criminals (prior to their 25th year), that they are recidivists, and that, in most cases, they evince the same nature of offence or general criminal tendency as the father.

His conclusion is that the investigation "supports the demand for the sterilisation of the early-criminalistic, endogenous offender" (p. 35).

Kuttner's investigation is interesting from the point of view of method. However, critical objections may be raised against its reliability. It does not tell whether the environmental conditions of the stepchildren have been more favourable than those of the own children. The number of criminalistic children over 18 years of age seems too small in view of the general conclusions the

author draws from this material (the conclusive argument is based on 36 adult own children (male) compared with 25 corresponding stepchildren having 17 and 5 cases of criminality respectively). The material of offenders placed in preventive detention includes a no smaller number of psychically defective persons (the author himself indicates the number of psychopaths among the fathers at approximately 60 per cent.), and the hereditary factor should have been especially examined in respect of this material. Finally — and not least — should it be remembered that the investigation is strongly biased, *vide* the author's own remark on p. 19 that he has *started on the assumption* that the phenomenon of crime includes a biological factor of heredity.

A supplementing investigation with the same tendency is mentioned by *v. Neureiter,* Kriminalbiologie, Berlin 1940, pp. 46 *et seq.* To make up for the defect inherent in Kuttner's limited material, he has arranged for an investigation of a similar nature in respect of 323 offenders placed in preventive detention in a different institution and their 212 own children and 48 stepchildren. This investigation is claimed "fully" to have confirmed Kuttner's results.

If these investigations had been confirmed by investigations of a larger material and under conditions leaving no doubt of the correctness of the scientific treatment, a greater probability could be said to have been provided as to the predominance of endogenous factors. The investigations, however, date back to a period in German science that invites an attitude of reserve to the results. And *even if* they may be confirmed, this would not mean that the heredity of specially criminal or anti-social tendencies had been proved or made probable. The possibility of dealing with a group of persons with psychic abnormalities of a more general character would have to be taken into account.

Vide in this connection *David Abrahamsen,* Crime and the Human Mind, London 1945, p. 38, quoting *E. R. Spaulding* and

William Healy, Inheritance as a Factor in Criminality. Bulletin of the American Academy of Medicine, XV (1914), pp. 4 *et seq.* On an investigation of the family background of 1,000 young delinquents it is denied in this work that any proof whatsoever has been provided of a direct inheritance of anti-social tendencies, while the heredity of feeblemindedness and epilepsy with resulting criminal tendencies is recognised.

12.
THE HEREDITY OF PSYCHIC ABNORMALITIES.

As an introduction to the question of the frequency of psychic abnormalities in the relatives of criminals and the concomitant taint, a brief account should be given of what is assumed in the psychiatric theory of heredity, as regards the heredity of psychic abnormalities.

To take *feeblemindedness* first, about 20 per cent. are supposed to be non-hereditary types and about 80 per cent. hereditary, mutually widely varying biotypes[1]). Hereditary feeblemindedness practically always manifests itself; it has, in the technical term, an unusual penetrancy; it shows no fluctuations of manifestation. The mild and medium forms are, in particular, hereditary. Grave forms of idiocy, as a rule, are due to lesions of the head during birth or effusions and inflammations of the brain in early childhood. It is open to doubt whether hereditary feeblemindedness is transmitted in the same degree from generation to generation in such a way that the offspring of mildly feebleminded persons become mildly feebleminded, too. As regards the prognosis of hereditary feeblemindedness, Luxenburger mentions an investigation undertaken by *Juda* in 1934 according to which the percentage of feebleminded children is 61.5, where both parents are

[1]) More recent investigations show, if anything, a higher frequency of exogenously determined feeblemindedness, for example because the mother has suffered during her pregnancy from rubella or influenza. — Feeblemindedness may also be due to an unfavourable combination of blood types (rhesus factor in both parents).

feebleminded, and only 29.1 where only one parent is feebleminded[1]).

In the field of *psychoses* there are hereditary as well as non-hereditary diseases. The latter include psychoses brought about by poisonings, infections, lesions of the brain, anomalies in the internal secretion and probably also certain psychoses of old age. The hereditary psychoses include first of all the large groups of disease, embodied under the terms schizophrenia, manic-depressive psychosis and epilepsy. Further, there are a number of transition forms, where the manifestation of the psychosis is particularly dependent upon the influence of external causes on an inherited disposition. This group often covers the so-called psychogenous psychoses (mental diseases brought about by psychic causes) which, however, may occur as practically speaking purely exogenously determined mental diseases.

The hereditary conditions of *schizophrenia* are subject to much doubt, which in part is due to the vagueness of the concept of schizophrenia and to the uncertainty that exists in regard to the organic diseases underlying the symptoms. It is apparently considered as a fact that there is a hereditary disposition behind the *syndrome* (in its more moderate demarcation), but nothing certain is known of the transmission, not even whether the disposition is inherited as a predominant or a recessive potentiality or if there is one or several inherited dispositions. Existing investigations of the families of schizophrenics tell, if anything, in favour of a recessive transmission. Only 4 to 5 per cent. of the parents of schizophrenics are schizoprenic themselves; the taint is chiefly found in the collateral lines. The children of the schizophrenics, on the other hand, show a rate of schizophrenia in excess of that of their brothers and sisters, which does not tally with the rules of recessive transmission. In view of the uncertainty associated with the phenotypic delimitation of schizophrenia, it is little

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1) In Denmark *H. O. Wildenskov,* through an investigation of a relatively small material, has found oligophrenia (including both feebleminedness and mental retardation) in up to 94 per cent. of children whose parents were both oligophrenic. Where one of the parents was oligophrenic, oligophrenia was found in the children in 47 per cent. of the cases, *vide* Wildenskov, Investigations into the Causes of Mental Deficiency, Copenhagen and London 1934.

wonder that the hereditary questions admit of so much doubt. Not even the question whether schizophrenia is a biological unit of heredity or should be split up into a number of biologically independent units may be considered as finally decided, though the general conception points in the former direction. As regards these questions, reference is otherwise given to the psychiatric theory of heredity. Mention will only be made here of a few practically important results of the comprehensive family studies, instituted on the basis of the general concept of schizophrenia as a working hypothesis. It is assumed that the predisposition to schizophrenia does not unconditionally manifest itself in those who have inherited it, but that it remains latent in 20 to 30 per cent. of the persons concerned. The prognosis of heredity in respect of (manifest) schizophrenia is, according to a table set up by Luxenburger: for the children of a schizophrenic 16.4, and for the grandchildren 3.0 (as against a frequency in the average population of 0.85). If both parents are schizophrenic, the risk of schizophrenia in the children is largely increased (according to existing investigations, which, however, are not extensive enough to admit of drawing general conclusions, to 63 per cent.).

In the case of *manic-depressive* insanity the questions of heredity are as much open to doubt as in the case of schizophrenia and mainly for the same reasons (the vagueness of the phenotype and uncertainty regarding the organic cause of the disease). In this field, too, it is positively assumed that the disease, to some extent, is due to heredity. It is uncertain whether the transmission is predominant or recessive or, which perhaps is most likely, whether the genotype is complex, being composed of predominant as well as of recessive dispositions. The disposition is not absolutely penetrating; it is supposed to be non-manifest in 20 to 30 per cent. of the cases. As regards the prognosis of heredity, Luxenburger gives the following figures: children 24.4, nephews and nieces 2.4, cousins 2.5, siblings 12.7 (as against a frequency in the average population of 0.44).

As regards *epilepsy,* the conditions are, in part, even more uncertain than is the case in respect of the two preceding abnormalities. Under the term of epilepsy are included phenomena merging from (chiefly) hereditary into (chiefly) exogenous diseases, in the psychiatric systematology designated as genuine

and symptomatic epilepsy respectively. As regards the forms of epilepsy included under the hereditary group, the transmission seems, if anything, to be recessive. The predisposition seems to be one of largely varying penetrancy, fluctuating from cases where it is released by trivial environmental influences to cases where only quite special environmental influences make it emerge. The prognostic examinations of heredity show varying results in connection with the different diagnoses of the hereditary epilepsy on the part of different investigators. Luxenburger has made a survey according to which the prognosis in respect of manifest epilepsy in the children of an epileptic is estimated at 11.0 per cent., in siblings 4.1 (as against a frequency in the average population of 0.3 per cent.).

Finally, as regards *psychopathy,* it will be evident from the definition of the concept of this abnormality, *vide* below, that there can be no question of a biological unit of heredity in this field. Psychopathy is no disease, but a personality deviation; its conclusion under the psychiatric diagnosis of "psychopathy" involves to a great extent a social evaluation. The degree in which the components of personality concerned are of an hereditary or an environmental nature is often an open question, *vide Jan Sachs* in Festskrift for Helweg, 1946, pp. 699 *et seq.*, emphasising the intricateness of hereditary and environmental factors in the so-called psychopaths and suggesting a terminology which does not tie the diagnosis to the assumption of an hereditary etiology.

While psychopathy as such cannot straightaway be designated as an hereditary defect, it must be assumed, on the other hand, that certain basic features of the psychopathic personality are due to hereditary factors. According to the psychiatric theory of heredity, this is true, in particular, of the intellect, the temperament and the traits of character associated with the temperament.

As will be discussed in greater detail below, psychopathy is divided into a number of different psychopatic special types, and inheritance (in the restricted sense referred to above, i. e. in respect of certain predisposing basic features) from the special type concerned to the same special type in the offspring is considered to have been demonstrated. This is asserted to be the case, in particular, in respect of the "self-insecure" psychopaths and, further, in respect of the "selfassertive" or "ambitious" psy-

chopaths, but not in respect of the "asthenic" psychopaths, *vide Luxenburger,* Psychiatrische Erblehre, München-Berlin 1938, pp. 131 *et seq.*

13.
THE FREQUENCY OF ABNORMALITIES IN THE AVERAGE POPULATION.

A detailed study of psychiatric morbidity in the average population has been conducted by *Erik Strömgren* in 1938 on the basis of data relating to the population of Bornholm, considered representative of the whole of the Danish population[1]). Of Strömgren's results should be mentioned that he found *12 per cent. psychiatric suspect* among adults. The risk of *schizophrenia* was found to be 0.65 per cent. and of *manic-depressive psychosis* 0.36 per cent.

In a recently published investigation by *Kurt H. Fremming,* Sygdomsrisikoen for Sindslidelser, 1947, likewise based on the population of Bornholm, the risk of *schizophrenia* was found to be somewhat greater, *viz.* 0.9 per cent., and substantially higher than was hitherto assumed for *manic-depressive psychosis, viz.* 1.64 per cent. The risk of *epilepsy* was found to be 0.46 per cent.

As regards *feeblemindedness, Helweg*[2]) considers that granted the currently accepted delimitation of the concept in Denmark, 1 per cent. of the population must be considered feebleminded, the large majority in a mild degree only. If somewhere 10 per cent. of the population have been found to be feebleminded, no doubt the requirements as to normal intelligence have been put very high. According to *Fremming*'s investigation the rate of feeblemindedness is 1.33 per cent. (for men 1.46 per cent.) and the rate of mental retardation 1.67 per cent.; the author himself, however, regards these figures as minimum figures; in this con-

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1) *Erik Strömgren,* Beiträge zur psychiatrischen Erblehre, Copenhagen 1938.

2) Den retslige Psykiatri, 1949, p. 118.

nection it should be noted that an examination of about 10,000 school children between 7 and 14 years of age in the county of Holbæk[1]) showed 4.2 per cent. to be mentally retarded[2]).

In respect of *psychopathy,* the figures are particularly uncertain. It may be mentioned that *Dickmeiss* in a forensic-psychiatric survey[3]) estimates the number of psychopaths at 6 to 7 per cent., while according to the above-mentioned investigation *Fremming* ventures to designate with certainty only 3 per cent. of the material as psychopaths.

14.

PSYCHIC ABNORMALITIES IN THE RELATIVES OF OFFENDERS

1. Insanity.

In the somewhat older criminology it was a general and strongly emphasised assumption that *insanity* was a frequent occurence in the relatives of criminals and that there was a close hereditary correlation between this family taint and criminality.

The delimitation of the concept of insanity, however, was dif-

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1) *H. Rasmussen* og *A. Andersen* in Report submitted by the Committee set up by the Ministry of Education concerning the establishment of special classes in the Elementary School for children unable to follow the general teaching, 1943, pp. 75 *et seq.*

2) Exactly 4.24 per cent. with an I. Q. between 75 and 89; further, 1.93 per cent. with an I. Q. below 75, in all 624 school children of defective intelligence = 6.2 per cent. of the total number of children in the schools from which recommendation for testing had been made. — *Rasmussen* and *Christiansen,* M & M 1947, pp. 172 f. consider that the latter figure should be increased to at least 10 per cent. *Vide, also,* Ha*rald Torpe,* Intelligensforskning og intelligensprøver, 1948, pp. 196 f.: an examination of school children in Esbjerg showed that 11.2 per cent. had an I. Q. $<$ 90. In this connection it should be noted that but 2 per cent. of Danish children attend special classes. — *Georg V. Bredmose,* Forsorgen for de i lettere grad åndssvage, Sorø 1944, assumes pp. 7 f. that the number of *feebleminded* is most likely to amount to 2 or 3 per cent. of the Danish population, thus no less than 80,000. Only 15,000 to 16,000 are subject to care as feebleminded, and of these about 12,000 are idiots and imbeciles (practically all those belonging to these categories are subject to care), while thus the vast majority of the morons (and all of the mentally retarded) are subject to no special care.

3) Politiet, 5th Year Book, 1942—43, p. 61.

ferent to that of later psychiatry and the results of the investigations varied much[1]).

The view referred to above was gradually relegated to a back seat though now and again it has re-emerged, and in recent years, too, investigations have been made with similar results.

Vide, e. g. J. Hartmann's treatise referred to in foodnote 1) below, where the author gives an account of an investigation of 132 habitual offenders. He found insanity (the figures, however, also include "angeborener Blödsinn" and deaf muteness) in at least one of the parents in 8 couples (6.1 per cent.), while the corresponding figure for 59 occasional offenders was 2 (3.4 per cent.). If grandparents, siblings and remoter relatives are included, the taint by insanity rises to 25.1 per cent. In this figure the author finds a proof of a close genetic correlation between insanity and crime. Hartmann's own figures show, however, that the total taint is very much the same for his group of habitual offenders and for occasional offenders, which goes to show that nothing conclusive is capable of being inferred from these figures.

More indicative are some German investigations from recent years showing considerable variations in the frequency of insanity in relatives of occasional offenders and of recidivists respectively, *vide* in particular *Schmid's* and *Schnell's* investigations of first offenders and recidivists[2]). In respect of the former, Schmid found an insane parent in 1.6 per cent. of the cases, while the corresponding figure in respect of Schnell's recidivists was 6.8 per cent. If the siblings and other near relatives of the offenders are included, insanity occurs in 12.1 per cent of the relatives of first offenders and in 17.7 per cent of the relatives of recidivists. In respect of the recidivists characterised as "incorrigible", the insanity rate of family members was somewhat higher than in respect of the other recidivists.

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1) *Vide* account of a number of older investigations *J. Hartmann,* Über die hereditären Verhältnisse bei Verbrechern, M.f.K. 1904/05, p. 515.

2) *Karl Schnell,* Anlage und Umwelt bei 500 Rückfallsverbrechern, Kriminalistische Abhandlungen, XXII, Leipzig 1935; *Albert Schmid,* Anlage und Umwelt bei 500 Erstverbrechern, Kriminalistische Abhandlungen, XXIV, Leipzig 1936.

It should be noted, however, that the data of these investigations are exclusively derived from the documents in Bayerische Kriminalbiologische Sammelstelle.

In contradistinction to the investigations discussed above there exists a number of more detailed and methodically improved investigations of a recent date disproving, on the whole, the theory of a higher frequency of insanity in the relatives of grave criminals. The most important of these investigations is that conducted by *Friedrich Stumpfl*[1]).

Stumpfl's subjects are, as already mentioned, 195 grave criminals (recidivists) and 166 mild offenders (non-recidivists). The investigations made by the author show that the siblings of recidivists are tainted by psychosis in no higher degree than are the siblings of non-recidivists. The figures are 0.69 per cent. and 1.56 per cent. respectively, the higher psychosis rate thus being for the siblings of mild offenders. The same result is arrived at in examining the cousins of the two groups, the figures being 1.04 per cent. and 1.39 per cent. respectively. In the fathers of the two groups, on the other hand, *Stumpfl* found a somewhat higher number of psychoses in the group of recidivists than in that of non-recidivists, 5.9 per cent. and 3.4 per cent. respectively; however, owing inter alia to the fact that the absolute figures are very low, he finds no indication of a higher taint rate in the recidivists (p. 55).

It may be added that Stumpfl found a somewhat higher frequency of insane parents in respect of sexual offenders than in the other cases (p. 55). The same observation has been made concerning an English group of young delinquents by *W. Norwood East,* whose statistical data show a significantly higher frequency of insanity in the relatives of sexual offenders than in the other criminal groups[2]) taken together.

Likewise, Stumpfl found a higher frequency of epilepsy in the

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1) Erbanlage und Verbrechen, Berlin 1935, pp. 51 *et seq. Vide* also *Rudolf Michel,* Verbrechensursachen und Verbrechensmotive, M.f.K. 1925, pp. 249 *et seq.*

2) *W. Norwood East,* The Adolescent Criminal, London 1942, pp. 47 and 65.

relatives of recidivists committing crimes of violence, *vide* below p. 89.

As more particularly regards schizophrenia, where the trend of the general conception has been towards a connection between heredity and crime, Stumpfl argues that, according to his investigations, the figure in respect of the siblings and cousins of grave criminals is no higher than in respect of the average population or the mild offenders. Not a single case of schizophrenia has been found among the fathers of the grave criminals and but one case of suspected schizophrenia among the mothers (p. 289).

Along with investigations of psychoses in the relatives of criminal persons, inquiries have also been made into the question of *criminality in the relatives of the insane.* Formerly, a higher crime rate than the average was expected, more particularly in the relatives of the schizophrenics; however, according to an investigation by *Kallmann* of the relatives of 1,000 schizophrenics, the findings showed no increased crime rate in respect of such family members[1]).

To sum up: The investigations referred to immediately above, provided they are not disproved, *have taken away the basis for assuming a significant correlation between criminality and psychosis in the family.* The question whether a non-insane person being a member of a family tainted by insanity is more liable to become criminal than is a sane person of a sound family[2]) should be answered in the negative according to these investigations.

2. *In Particular: Epilepsy.*

According to *Lombroso* epilepsy and crime were closely related phenomena. Under the influence of this theory numerous older criminological works have been concerned with the occurrence of epilepsy in the relatives of criminals, and in recent investigations, too, the question still holds interest.

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[1]) According to *Exner,* Kriminalbiologie, Hamburg 1939, p. 159.

[2]) *Vide Exner, loc. cit.*

A survey of earlier investigations is given by *Fr. Hallager,* Sindssygdom, Forbrydelse og Genialitet, 1906, pp. 78 *et seq.* Former records of high figures — up to 15 per cent. epileptics among family members — have not withstood a closer test. A Danish investigation of about 4,000 prisoners committed to Danish penitentiaries during the years 1894—1904 showed epileptic parents in respect of well over 2 per cent. of the prisoners *vide* Hallager, *loc. cit.,* where it is added that the prisoners so tainted had shown no special criminality.

A somewhat higher frequency of epilepsy in the relatives of certain groups of offenders has been found in more recent German investigations. There is no question, however, of a confirmation of Lombroso's general theory, but a correlation of a special and rather doubtful nature.

Stumpfl, Erbanlage und Verbrechen, Berlin 1935, pp. 89 *et seq.,* 290, claims to have found an above-average rate of epilepsy in the family members of recidivating *aggressors* of a pure type. The group of subjects here, however, includes but 16 persons and the figures of reliable cases of epilepsy in the family members are probably too slender to permit of statistically significant conclusions.

In an investigation with the opposite starting point, being concerned with the occurrence of *criminality in the relatives of epileptics, Conrad* has found a higher crime rate in children whose parents suffer from hereditary epilepsy, as opposed to cases where the epilepsy is traumatic[1]) in character.

In the light of these investigations *Exner* draws the conclusion that the offspring of genuine epileptics more often than not include characters with a particular criminal risk, more especially in the direction of *explosive crimes of violence and sexual crimes*[2]).

Apart from the doubtful exceptional cases referred to above, the findings of the most recent investigations go to show that there is no ground for assuming a biological correlation of heredity between crime and epilepsy in the relatives of offenders.

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1) According to *Exner, op. cit.,* pp. 159—60.
2) Kriminalbiologie, *loc. cit.*

3. Feeblemindedness.

Nor in regard to feeblemindedness do recent investigations support earlier hypotheses of a correlation between crime and psychic defect in the family members. Feeblemindedness, it is true, is largely an hereditary defect, more particularly in the mild forms, and it is not disputed that mild feeblemindedness involves a special criminal risk which, to some extent, is traceable to heredity. (In recent years, however, this risk has been considerably reduced through public care or has been eliminated by sterilization). On the other hand, it is disputed that the frequency of feeblemindedness should be substantially higher among the relatives of grave criminals, than among those of mild offenders or in the average population. In this connection it should be noted, however, that the difficulties in the way of determining the existence of mild cases of feeblemindedness and borderline cases of mental deficiency are very great and that, for this reason alone, the findings are subject to a no small degree of uncertainty.

The most thorough investigation is here again conducted by *Stumpfl,* see Erbanlage und Verbrechen, pp. 101 *et seq.,* 290—91. He found but a small, certainly not significant, difference in the number of feebleminded (morons and imbeciles) among the relatives of recidivists and non-recidivists. In the former group the percentage was 3.11 among siblings and 2.3 among cousins. In the second group it was 2.08 among siblings and 1.9 among cousins. According to Stumpfl, the correlation between feeblemindedness and crime is only indirect, in the sense that abnormalities of character conducive of grave criminality may, as a rule, be observed in the mentally retarded or the mentally deficient (p. 105).

Riedl[1]), on the other hand, finds a considerably larger number of "Schwachbegabte" in the siblings of early criminals than in the siblings of late criminals, *viz.* 13.6 per cent. among 918 siblings of the former groups and 3.8 per cent. among 809 siblings of the latter group. It should be noted that this author in

1) *M. Riedl,* Studie über Verbrecherstämmlinge, Archiv für Kriminologie, Bd. 93, Berlin 1933, p. 238.

"Schwachsinn" includes cases where essential difficulties have been ascertained in the elementary school (p. 126). — As regards the fathers, the difference was but insignificant (4.5 per cent. and 3.0 per cent. mentally deficient respectively).

4. Psychopathy.

Just as definitely as more recent, in particular more recent German criminology takes exception to the theory of an hereditary connection between crime and family taint by insanity, epilepsy, and feeblemindedness, so conversely, does it stress such a connection in regard to psychopathy. Here Lombroso returns in modern guise.

As a representative of this view *Exner* may be mentioned. In the light of a number of investigations, the most important of which are discussed immediately below, he asserts that the evidence of an hereditary correlation between psychopathy and crime is conclusive ("eindeutig"), recidivists having a very high direct taint by psychopathy, occasional offenders a much lower taint. This can only mean that the psychopathy of the parents manifests itself, by way of inheritance, in the persistent criminality of the children[1]).

This positive assertion, however, must not be absorbed without criticism.

Exner takes his stand, in particular, on two series of investigations, *viz.* 1) *Schnell*'s and *Schmid*'s studies of the family taint in 502 recidivists[2]) and 502 first offenders[3]) respectively and 2) *Stumpfl*'s studies[4]) of the family taint in 195 recidivists (grave criminals) and 166 non-recidivists (mild offenders) respectively. Further comments on these studies follow:

Karl Schnell, pp. 43 *et seq.*, draws a parallel between psychopathy and suicide from the point of view that the psychic condi-

1) *Exner,* Kriminalbiologie, Hamburg 1939, p. 160.
2) *Karl Schnell,* Anlage und Umwelt bei 500 Rückfallsverbrechern, Kriminalistische Abhandlungen, XXII, Leipzig 1935.
3) *Albert Schmid,* Anlage und Umvelt bei 500 Erstverbrechern, Kriminalistische Abhandlungen, XXIV, Leipzig 1936.
4) *Friedrich Stumpfl,* Erbanlage und Verbrechen, Berlin 1935.

tion leading to suicide more often than not must be characterised as psychopathic. The answer in this study to the question of psychopathy in the family members is based on very unreliable sources such as the information given by probation officers and local authorities concerning "suspect qualities" in parents and siblings, such as brutality, bad temper, prodigality, social maladjustment, etc. The author employs, indeed, the distinctive term "suspect character" instead of "psychopathy". The study made by *Albert Schmid* of the control group of 502 first offenders relates to a corresponding material of documents, thus basing the diagnostication of psychopathy in the family members on the same doubtful foundation, *cf.* Schmid, pp. 20 *et seq.* The findings of the two investigations may be summed up as follows:

	Recidivists	First Offenders
Suspect character	175 fathers, i. e. 35 % 99 mothers, i. e. 20 %	41 fathers, i. e. 8,1 % 29 mothers, i. e. 5,7 %
Suicide	15 fathers, i. e. 3,0 % 3 mothers, i. e. 0,6 %	5 fathers, i. e. 1,0 % 2 mothers, i. e. 0,4 %

Stumpfl., pp. 145 *et seq.*, 293—94, gives the following table of the occurrence of mental deviates (psychopaths) in the relatives of non-recidivists and recidivists:

	Total number	Including mental deviates	
		absolute	percentage
Fathers of non-recidivists....	149	10	6.7 ± 2.05
Fathers of recidivists.....	169	53	31.4 ± 3.57
Siblings of non-recidivists ...	560	39	7.0 ± 1.08
Siblings of recidivists	336	116	34.5 ± 2.59
Cousins of non-recidivists....	1256	50	4.0 ± 0.55
Cousins of recidivists.....	627	56	8.9 ± 1.07

To these figures, however, the author himself adds, (p. 146) that an exact counting of psychopaths is, in principle, not possible, as psychopathy merges into normality by insensible degrees. "All the same, we found it desirable to apply a standard though an arbitrary and no doubt also a subjective one, to the material to roughly illustrate the observations by figures".

It should be mentioned that *David Lund,* to whom Exner also refers, estimates considerably lower figures as regards psychopathy in the relatives of his subjects, but ascertains all the same essential differences in the same direction as Stumpfl: in the group of neglected and delinquent children one of the parents belonged to the group of psychic suspect or hysterical persons in 10.1 per cent. of the cases, the corresponding percentage in the non-criminal control-group being but 1.8.[1])

As appears from what has been stated already, the diagnoses underlying the figures recorded are based, in part, on uncertain data and are, on the whole, rather subjective in character.

However, even if the judgment be accepted and it be considered proved that the occurrence of psychopathy is far above the average in the near relatives of persistent criminals, the proof of an hereditary correlation is still uncertain. It cannot be disregarded that psychopathy is no clear-cut phenomenon, that not only mere biological criteria, but also a social evaluation should be applied in its diagnostication, and that environmental factors strongly influence its genesis. It does not seem possible, anyway, to extend the hereditary view beyond a recognition that the offspring of psychopaths will to a certain extent become psychopaths, too. The connection with criminality will be indirect only, that is, provided an increased criminal risk is inherent in the type of psychopathy concerned. If the problem is set in the way Exner has done, as to whether there is an hereditary correlation between insanity and crime and therefore as to whether a non-psychopathic person of a

[1]) *David Lund,* Über die Ursachen der Jugendasozialität, Uppsala 1918, p. 84.

psychopathic family presents a greater criminal risk than does a non-psychopathic person of a sane family, it must be emphasised that research has not as yet afforded anything like a safe basis for resolving it in the affirmative.

15.
ALCOHOLISM IN THE FAMILY.

Criminological investigations of heredity taint often include data on alcoholism in the parents and other relatives of the offenders. Before giving a brief account of the material available in this field, however, I wish to stress that more recent hereditary research adopts a critical, if not a downright adverse attitude to contentions of *hereditary* deteriorations of the offspring of alcoholics. An apparent "hereditary taint" may very often be due to an injury of the germ or of the fetus owing to alcoholic poisoning ("false heredity"), and the correlation often ascertained between alcoholic parents and delinquent children may be due to an actual inheritance of a psycho-pathological inferiority (lack of resisting power) of which alcoholism and criminality, each in its own way, are symptomatic; however, it should no doubt be taken into account as well that the so-called "hereditary taint" is largely an environmental phenomenon, children growing up in an alcoholic home being, as a matter of course, particularly liable to social handicaps and positive environmental injuries.

A difficulty in the way of evaluating the findings of existing investigations is that they employ terms like "alcoholism", "chronic alcoholism", "drunkenness" etc., in a vague and varying sense, *vide* on the terminology below, p. 293. The varying concepts used, however, have it in common that they only envisage permanent and substantial abuses of alcohol. Another difficulty is the absence of reliable data on the frequency of abuse of alcohol among the general population.

The frequency, of course, varies widely from country to country and from time to time. A German investigation about the turn of the century — *Diem,* Archiv für Rassenbiologie, 1905 — which it may be interesting to compare with German investigations of the same period on alcoholism in the relatives of criminals, showed that among the parents of about 1,200 normal persons drunkenness was found in one or both of the parents in approximately 18 per cent. of the couples.

A brief account of some of the most important investigations follows.

Chr. Geill, Kriminal-antropologiske Studier over danske Forbrydere, Copenhagen 1906, pp. 84 f., discovered alcoholism in 110 cases among the parents of 600 first offenders (well over 18 per cent.). As regards the 1,142 recidivists, the corresponding figure was 340, *i. e.* 30.47 per cent. The author considers the figures in respect of the first offenders the more reliable, as "not a few recidivists, here as in the case of other data which are hardly capable of control, no doubt make misstatements on purpose". Nevertheless (p. 90) he ascribes a certain relevancy to the difference ascertained, which is substantially greater than those of other hereditary factors in his investigation: "if there exists a special crime-producing degeneracy, it must ..... chiefly be the one rooted in the alcoholism of the parents".

David Lund, Über die Ursachen der Jugendasozialität, Uppsala 1918, dealing with the question at some length on pages 62 *et seq.,* states that 36 per cent. of the whole of his group of delinquent children and 39.6 per cent. of the 175 Hall-boys had drunken fathers, while the corresponding percentage for the non-criminal control-groups was only 8.1. Alcoholism among the mothers showed an even greater difference: 7.7 per cent. in the Hall-boys, 0.4 per cent. in the control-group. By way of comparison, the author states the results of investigations in other countries and explains the great variations as, in part, due to the different definitions of the concepts of alcoholism, drunkenness, etc. "The indisputable fact remains, however, that according to all exact investigations no less than one-fourth of the neglected and delinquent young persons are descended from drunkards" (p. 66). — The author recounts investigations according to which

alcoholism in ascendants is supposed to make for a certain degeneracy (mental defects) in the offspring. According to his own investigations, however, the converse seems to be the case: particularly high frequency of alcoholism in the offspring of families including many psychically inferior members (p. 68). Lund, however, takes exception to the assumption, based on a series of studies at the Eugenics Laboratory in London, that alcoholism may be ignored as a factor of degeneracy. It is asserted that detailed studies of some of the Swedish families have demonstrated that neither the drunken parents nor grandparents were mentally or physically inferior, while the children were imbeciles, had physical diseases, etc. (p. 69). However that may be, the author recognises that alcoholism in the ascendants is no direct cause of criminal tendencies in the offspring. However, "as an environmental corruptor in economic and moral respects the alcoholism of the parents is an indirect causal factor of principal importance, as regards the tendencies of the children" (p. 69).

The results of these and several other investigations may be embodied in the table below:

	Drunken fathers %	Drunken mothers %	At least one drunken parent %
Geill, first offenders			18.33
Geill, recidivists			30.47
Hartmann[1]), occasional offenders	11.9	1.7	
Hartmann, habitual offenders	27.3	6.8	
Lund, non-delinquent children	8.1	0.4	
Lund, delinquent children	39.6	7.7	
Stumpfl[2]), non recidivists	10.0	1.2	
Stumpfl, recidivists	34.7	2.1	
Schmid[3]), first offenders	14.7	0.0	
Schnell[4]), recidivists	39.4	2.4	
Riedl[5]), late criminals	23.0	1.0	
Riedl, early criminals	48.5	3.5	

[1]) MfK 1904—05, p. 493.
[2]) Erbanlage und Verbrechen, Berlin 1935, p. 37.
[3]) Krim. Abh. XXIV, Leipzig 1936, p. 28.
[4]) Krim. Abh. XXII, Leipzig 1935, p. 48.
[5]) Archiv für Kriminologie, 1933, p. 238.

The illustration afforded by such investigations of the significance of the direct taint by alcoholism to persistent criminality is confirmed by investigations of alcoholism in the *siblings* of criminals.

Thus, *Schnell*'s and *Schmid*'s investigations show that the percentage of alcoholics among the brothers of recidivists is far higher than among the brothers of first offenders, *viz.* 7 per cent. and 1.2 per cent. respectively. These authors have examined alcoholism in the whole circle of blood-relations as well and found that in 46.2 per cent. of the families of recidivists there was at least one drunkard, while this was the case in but 16.7 per cent. of the families of first offenders (*op. cit.*, p. 49 and p. 29).

Altogether, the large number of investigations bear safe witness to a very high frequency of alcoholism in the relatives of criminal persons, more particularly in the parents and first of all in the fathers. This "direct taint" is generally more frequently found among recidivists than non-recidivists. As compared with other "taint factors" alcoholism in the parents is one of the most important, perhaps the most important of all; it does not, however, permit of conclusions being drawn as to a biological correlation between alcoholism and heredity; on the importance of the alcoholic question to criminality see below pp. 288 *et seq.*

16.
STUDY OF TWINS.

The following exposition is based on an extensive literature[1]). A chronological survey of the latter is given in the note below to which references in the text relate.

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[1]) *Francis Galton,* The History of Twins as a Criterion of the Relative Powers of Nature and Nurture. 1896.

H. W. Siemens, Zwillingspathologie, 1924.

J. C. Smith, Aandssvaghedens Aarsagsforhold belyst ved Undersøgelse af Tvillinger. Meddelelser om Danmarks Antropologi, 3, 1924.

Johannes Lange, Verbrechen als Schicksal. Studien an kriminellen Zwillingen. Leipzig 1929.

Oluf Thomsen, Arvelighedsforhold hos Mennesket, Copenhagen 1930.

A. M. Legras, Psychose und Kriminalität bei Zwillingen. Zeitschrift f. d. ges. Neur. u. Psych. 144, 1933.

The Twin Method.

Conclusive evidence of the relevancy of the hereditary factor in relation to the environmental factor is supposed to have been provided, in particular in recent German criminology, through a *comparison of the criminal conditions of monozygotic and dizygotic twins.* The argument is, briefly, based on the following consideration: The hereditary dispositions of monozygotic twins (combinations of genes) are identical, whereas dizygotic twins, from the point of view of inheritance, are not more alike than siblings in general. As regards environmental conditions, both types of twins must be supposed to have mutually more or less equal conditions. If experience shows that a substantially higher criminal concordance exists in monozygotic pairs of twins than is the case with the dizygotic pairs, the criminality must be predominantly hereditary. Through studies, which will be recounted below, investigators have claimed to have provided a reliable empirical material in this direction.

The twin method is derived from the biological research into heredity where it was first applied by *Francis Galton* in 1876 and later developed in particular by *Siemens.* As regards biological processes, more particularly the development of physical diseases, a comparison of the two types of twins has revealed concordance in monozygotic twins, but not in dizygotic twins, and the same is

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A. J. Rosanoff, Criminality and Delinquency in Twins. Journ. of Crim. Law and Criminology XXIV. 1934.

Heinrich Kranz, Diskordantes soziales Verhalten eineiiger Zwillinge. M.f.K. 1935, pp. 511 *et seq.*

Heinrich Kranz, Lebensschicksale krimineller Zwillinge. Berlin 1936.

Friedrich Stumpfl, Die Ursprünge des Verbrechens, dargestellt am Lebenslauf von Zwillingen. Leipzig 1936.

Horatio H. Newman, Frank N. Freeman, Karl J. Holzinger: Twins. A Study of Heredity and Environment. Chicago 1937.

Christian Eckle, Erbcharakterologische Zwillinguntersuchungen. Beiheft zur Zeitschrift f. angewandte Psyshologie und Charakterkunde. No. 82. Leipzig 1939.

Essén-Möller, Psychiatrische Untersuchungen an einer Serie von Zwillingen. Copenhagen 1941. Acta psychiat. et neurol. Suppl. XXIII.

Emil Østlyngen, Psykologisk tvillingforskning. Oslo 1946.

Gunnar Dahlberg, Arv og Race, Copenhagen 1947, pp. 126 *et seq.*

true of mental defects and diseases. The concordance has proved to be connected with the heredity of the disease concerned. In the light of this experience the inference is now made that, where universal concordance is ascertained in regard to a certain phenomenon in twins who are very much alike, this circumstance tells in favour of the exclusively or predominantly hereditary nature of the phenomenon[1]).

Monozygotic or identical twins are the products of a single egg fertilised by one sperm cell. The egg is divided at an early stage of the development of the fetus into two halves and each of these compensates for the lacking half by a sort of regenerative process. If the division into two individuals does not succeed, a kind of monster will be developed. The measurements of the one twin on the right side correspond to those of the other twin on the left side. The fingerprints are not identical (which is not the case either, as regards the right and left hand of the same individual).

About one-fourth of all pairs of twins are supposed to be monozygotic.

The question whether twins are monozygotic or dizygotic may be immediately determined at birth by examining the placenta and the egg membranes *(Oluf Thomsen)*. Subsequent investigations are based on tests of similarity, which are supposed to present little risk of errors, *cf. von Rohden*[2]), according to whom the single-egg diagnosis after the completed first year is capable of being made with practical certainty.

The test relates only to characteristics known to be hereditary, primarily skin marks (dermathological method (*Siemens*)). According to *von Rohden,* there should be similarity in the following particulars:

Colour, form and growth of hair, growth and distribution of body hair; *iris colour, colour and growth of eyebrows;* colour and blood circulation of skin, in particular in hands and feet; *blood group,* dilatations of vessels, freckles. As somewhat less reliable characteristics: sulcations of tongue, form and position of

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1) *Johannes Lange, op. cit.,* p. 12.

2) *Friedrich von Rohden,* Einführung in die kriminalbiologische Methodenlehre. Berlin 1933, pp. 40 *et seq.*

teeth, form of nose and lips, form and expression of face, ear muscle, form of hands and finger-nails, friction-ridge patterns of fingers and palms.

By no means all the characteristics show concordance to the smallest details. *The blood group alone seems always to be identical.* The total impression of "similarity" and "dissimilarity" may disappoint.

As regards the course of development of identical twins, a number of striking similarities are recorded from the field of anamneses.

Twin Studies concluding in an Inherited Disposition being the Principle Cause of Crime.

The best-known study of criminal twins is "Verbrechen als Schicksal" (English edition, "Crime as Destiny" 1931), published by the German physician, Professor *Johannes Lange,* in 1929.

After the separation of a number of cases, *vide op. cit.* pp. 12 *et seq.,* Lange's material comprises 30 pairs of twins of whom at least one (the subject first investigated) has been convicted. Of these pairs 13 are monozygotic and 17 dizygotic of the same sex. Among the 13 monozygotic pairs the second twin has been convicted in 10 cases; among the 17 dizygotic twins the second twin has been convicted in but two cases (p. 14). Lange draws the following conclusion:

"As far as crime is concerned, monozygotic twins on the whole react in a definitely similar manner, dizygotic twins behave quite differently. If, therefore, we attach importance to the twin method of investigation we must admit that as far as the causes are concerned, innate tendencies play a preponderant part" (p. 14).

The investigation includes as well a comparison between the criminal concordance of dizygotic twins and of ordinary siblings, pp. 16 *et seq.* The author tends to demonstrate that there is no great difference here inspite of the more similar environment in which twins grow up and, accordingly, draws the conclusion that environmental factors play only a small part in the genesis of

crime. Owing to the uncertainty inherent in the figures with which the author operates, this part of the investigation is of no great interest.

It should be noted that Lange's cases of concordance include several where the criminal concordance is but formal, the brother, though convicted, presenting quite a different criminality, as regards manner and extent, than the subject first investigated, *vide* pp. 83—84. On the other hand, the author offers special explanatory reasons in respect of the three cases where there is discordance in spite of (supposed) monozygotism. In at least two of these cases the criminal partner is supposed to have had a serious brain lesion which has been a potent factor in the causation of crime (pp. 73 *et seq.*).

After the publication of Lange's work a number of studies of criminal twins have been conducted by various investigators, *vide* the references above. A survey of the results of these studies is rendered here from *Lenz, O. von Verschuer, W. Weitz,* Erbpathologie, 5. Aufl., München-Berlin, 1942, p. 452:

	Monozygotic twins		Dizygotic twins (of same sex)	
	Concordance	Discordance	Concordance	Discordance
Lange (1929) ...	10	3	2	15
Legras (1932) ..	4	0	0	5
Rosanoff (1934)	25	12	5	23
Kranz (1936) ...	20	11	23	20
Stumpfl (1936)	13	5	7	12
Total	72	31	37	75
Percentage	69.9	30.1	33.0	67.0

Apart from *Legras'* work showing complete accordance in the monozygotics and complete discordance in the dizygotics, but which indicates less for the very good reason that only a small

number of pairs were examined, the more recent studies present a more mixed general picture than does that of Lange (relatively more discordant cases among the monozygotics and relatively far more concordant cases among the dizygotics). Still, they point in the same direction and the results of all of the studies may be collated with some justification, as has been done in the textbook on Erbpathologie. They include a total of 215 twin pairs more or less equally divided between the two types of twins and the table shows that *while about 70 per cent. of the monozygotics were concordant in relation to crime and only about 30 per cent. were discordant, the very opposite was the case in respect of the dizygotics.*

The scientific value of this collation, however, is rather questionable, the different investigators operating with different concepts of criminality and concordance. A collation, therefore, can be nothing but a rough guide, anyway. Of greater interest is a close study of each particular work. For the sake of brevity, I shall confine myself to dealing with only one of the more recent studies in greater detail, *viz. Stumpfl*'s twin study of 1936, which is the most interesting from the point of view of method.

Stumpfl's material includes 65 pairs of twins with a criminal partner as the subject of the first investigation. The 65 pairs fall into the following groups: 18 monozygotics (including three female pairs), 19 dizygotics (including two female pairs) of the same sex and 28 dizygotics of different sex (*op. cit.*, p. 16). The author has personally interviewed all of the twin pairs, but in "a few exceptional cases" (the number is not indicated) he has not seen both partners, however, and has then made the diagnosis of monozygotism "with complete certainty" on the basis of photographs. (p. 17).

As regards the question of concordance, the study discriminates between *various degrees of concordance.* The first degree is based on the sheer formal criterion of whether or not both partners have criminal records. This criterion, which underlies the figures of Lange and Kranz, has the advantage of being fixed and precise; however, the author ignores mere petty offences (thereby

exercising a not altogether controllable judgment, *vide* p. 18). On the other hand, it can by its nature, express no essential interrelation between the predispositions of the partners, but must, to some extent at least, depend on accidental circumstances. This becomes particularly apparent in Stumpfl who twice erroneously diagnoses the partner of a criminal twin as discordant because he is not on the criminal records, though he is later proved to be a criminal (p. 20). The results of Stumpfl's investigations of this degree of concordance are stated in the above survey. As will be seen, the difference between the conditions of monozygotic and dizygotic twins is not nearly so great as is the case in Lange's study, which, according to the author, is due to the fact that Lange has hardly been thorough enough in providing data on criminality in the partners of the dizygotic pairs (p. 19).

Next, on the basis of a study of the careers of the individual twin pairs, Stumpfl introduces higher degrees of concordance, *vide* pp. 171 *et seq.* *Second-degree-concordance* relates to similarity in respect of the gravity of crime and here the criterion is whether both partners have been convicted once or several times. *Third-degree-concordance* relates to the criminal technique. Similarity is concluded where both partners (chiefly) have been convicted for crimes of the same type. *Fourth-degree-concordance* exists where the general social behaviour of the twins, regardless of prosecution, but based on reliable information, is concordant. Finally *fifth-degree-concordance* relates to "complete similarity between the twins, as regards the deep-seated distinguishing features of character ... and its abnormalities".

On the basis of his material the author indicates an ever-increasing concordance from the lower to the higher degrees. In the fourth degree the concordance is nearly and in *the fifth degree fully 100 per cent.* (p. 172). Conversely, the discordance increases in the dizygotic twins and is 100 per cent. at the fourth and fifth level (p. 173).

Along with this classification, the author divides his material of monozygotic twins into grave and mild criminals, early and late criminals (first conviction after the 25th year) and male and female criminals (pp. 91 *et seq.*) and arrives at the result that male monozygotics with grave and early criminality have entirely concordant partners, while the opposite is the case in mild-criminal, late-criminal and female monozygotic twins (p. 98).

Criticism.

These studies are subject to several sources of error. Some of them, such as the uncertainty inherent in the very diagnosis of monozygotism and in tracing the actual criminal past history of both partners, are hardly capable of complete elimination, but the risk of error may here be reduced so considerably that it need not affect the force of evidence of the twin studies. This presupposes, however, that it can be safely assumed that the particular study has been conducted in an entirely objective attitude.

Even if all conceivable caution and thoroughness have been applied in diagnosing monozygotism and in ascertaining criminality, a high degree of vagueness is inherent in the concept of criminality, as is evident in Stumpfl's refined studies, and a resulting vagueness and error in the concept of concordance with which the investigators operate and from which they draw conclusions. If importance alone is attached to the mere fact whether or not the fellow-twin has been "convicted" in the legal sense, concordance will be found, say, between a persistent recidivist and his more or less honest twin brother who has once yielded to the temptation of not informing the police of an article he has found, that is, it is "proved" that a criminality which according to all other experience is typically due to an immediate temptation is the outcome of an inherited criminal disposition. And to avoid this absurd consequence one has to abandon the apparently so objective criminal criterion and to embark upon evaluations ending in Stumpfl's fifth degree of concordance, that is, in a collation of personality types where the investigator's subjective judgment plays and must play an important part.

As characteristic of the subjectivity of the evaluation it may be stated that in his conclusion on the result of his twin studies *Stumpfl* emphasises that "the strongest and constantly recurring impresion is the impression of a simply complete similarity in

all of the basic traits of character in monozygotic twins" *(op. cit.,* p. 91). As against this view *vide Newman, Freeman, Holzinger*'s American twin study (referred to in the list of literature above), who ascertain essential personality deviations in the monozygotic twin partners in the individual case studies as well as in the statistically analysed study series *(vide, e. g.,* Case I, II and VIII) and who demonstrate in general that, as regards the group of features classified under "personality" and "temperament", the similarity is no greater between the monozygotic than it is between the dizygotic twins (pp. 350 *et seq.*)[1]. It should be noted that this result is the outcome of a study of 50 pairs of monozygotic and 50 pairs of dizygotic twins (p. 27) and is founded on particularly elaborate tests.

In addition to the sources of error inherent in the differentiation of the material itself as monozygotic and dizygotic and as concordant and discordant, the possibility of drawing fallacious conclusions from the observation made should be pointed out. Above all, the material may be too small to permit of general conclusions or it may be so selected as not to be typical or representative. In both respects a question mark should be put to several of the studies referred to above. Next, and this may be the most decisive objection, similarity in the findings on criminal phenomena does not warrant conclusions of hereditary causation on the same lines as where the twin method is applied with reference to mere biological phenomena. Environmental influence, as is evident at least in the discordant cases, is of far greater significance in the genesis of crime than in the development of the physical and mental traits with which the medical research of heredity is concerned.

The American twin study *(Newman, Freeman, Holzinger)* referred to above reveals in this connection that the monozygotic twins showed a substantially greater similarity, as regards physical measurements and as regards intelligence, than did the

1) *Vide* in the same direction *Gunnar Dahlberg, op. cit.* p. 130: "Temperamental differences are relatively great in monozygotic twins".

dizygotics. However, when the authors came to consider the more complicated forms of the individual's behaviour, the differences in the monozygotics averaged those of the dizygotics, pp. 332 *et seq.* While, for example, the handwriting of a pair of monozygotics showed the same characteristic tremor (muscular tremor), there was no concordance in regard to the handwriting itself; here, say the authors, we have the personality as it has been shaped by inter-action between the given organism and the surroundings. The same thing was apparent in the tests relating to emotions. Here we are facing a level of behaviour where the conduct of the individual is shaped in adjustment to and under the influence of the environment.

Though it must be recognised that a considerably higher degree of concordance in a sufficiently large series of monozygotic twins compared with a similar series of dizygotic twins (and granted the elimination of the sources of error referred to above) tells in favour of the predominancy of hereditary factors, one cannot preclude the possibility that monozygotic and thus very similar twins generally grow up under more homogeneous environmental influences than do dizygotic twins who are not more alike than ordinary brothers and sisters. The so-called "identical experience" is more common in respect of the monozygotics because, for the very reason of their special similarity, they evoke the same reactions in the surroundings. It is, therefore, natural that interest has turned to twin studies concerned with monozygotic twins who have been brought up separated from each other in different environments. To my knowledge however, no such studies have been conducted with reference to criminal twins.

On the other hand, *Newman, Freeman, Holzinger*'s study dealing with a non-criminal twin material includes a series of 19 pairs of monozygotic twins having been brought up separately (p. 28). A comparison of the average differences in the pairs of this group with the corresponding differences in the partners of the non-separated monozygotics shows larger differences in the separated twins in regard to weight, intelligence and scholastic attainments, but no substantially larger difference in regard to the other tests.

Whatever view is taken of the evidential force of these studies of criminal twins with reference to the general significance of the predisposition, they afford *no basis for assuming, in the concrete case, an hereditary predestined criminal tendency in the individual person.* On the contrary, all of the studies show for a fact that, in spite of the identical hereditary disposition of monozygotic twins the one may become a recidivist of marked criminal type, while the other is never convicted or only occasionally breaks the law. These discordant cases, it is true, seem to be the exception, but they are of no less interest for that reason. In point of fact, they afford the best proof of all the cases because the different social behaviour of the twins is capable of safe relation to the environmental factor in these cases where the hereditary factor is invariable.

A closer consideration of discordant cases, as recounted, provides a convincing empirical material for the possibility of adjusting an anti-social nature to a lawful existence under favourable conditions and for the converse possibility too: that quite a decent fellow, by the force of circumstance is wrecked and develops into an habitual criminal.

As an example may be mentioned the monozygotic Santer brothers dealt with by *Stumpfl* on pages 125 *et seq.* Both brothers had been convicted many times for theft, etc. between the ages of 15 and 21. At that time, however, one of the brothers, Heinrich, joined the foreign legion in which he served for 10 years. After having been promoted in the service he comes back and is convicted no more. The second brother, Leopold, on the other hand, has continued his criminal career.

Another example from *Stumpfl,* pp. 143 f. It relates to a monozygotic pair of female twins. Barbara K. starts early with thefts and sexual immorality. Maria, who has grown up in the same conditions, comes to stay with a married sister of blameless character and this family association coupled with a disablement due to illness (defective hearing) keeps her from a dissolute life, though she has the same sexual tendencies as her twin sister, and she is never convicted.

Kranz, p. 124, mentions the Korf twins. One of the monozygotic brothers is an often-convicted criminal committing crimes of violence, the second twin, who is a chucker-out at a pub (equivalent of criminality), keeps out of jail.

A number of examples of cases where the onset of a disease changes the course of life and the social behaviour of one of a monozygotic pair of twins are given by *Kranz* in M.f.K. 1935, pp. 312 *et seq.* The same treatise also gives accounts of the following case:

Two 31-year-old twins (monozygotic), Oskar and Horst K. show essential similarities: same diseases as children, same school ability, same sporting and philosophical inclinations, same choice of occupation as banking employees. Owing to an accidental disease Horst is discharged from the bank at the age of 19, but obtains employment in a foreign bank keeping a strict control of its employees. Oskar, on the other hand, remains in a German bank. Two years later comes the inflation. Oskar gets mixed up in a number of frauds, is convicted, contracts syphilis and goes to the dogs, while his brother continues his social conduct of life.

17.
CONCLUSION ON HEREDITY AND CRIME.

The foregoing discussion of hereditary questions in relation to crime (pp. 45—108) has carried us from an analysis of the concepts of *disposition and environment* and an account of the more general theories concerning the existence of *criminal dispositions* and their significance, to an exposition and review of the most important of the methods which have been applied to determine the relative weight of the hereditary factor with reference to criminality: the *concrete family study* (the study of "criminal families"), the *statistical family study* and the *study of twins.* We have seen examples of the application of each of these methods, have got to know the results of a great many investigations, and have criticised the latter as well as the wider conclusions drawn from them.

It has become apparent that the concepts of disposition and environment are far more complicated and interdependent con-

cepts than is generally assumed. This analysis alone has made it evident that there can be no question of a purely hereditary criminality.

Accordingly, the problem has been that of finding out to what extent the family study undertaken so far has proved or made it probable that hereditary factors are important in the genesis of crime.

Exception has been taken to basing any proof of heredity on the formerly much overestimated accounts of *particular criminal families,* for the very reason of the unreliability of the data relating to the earlier generations.

The *statistical* family study has been discussed with reference to three groups of potential factors of taint: *criminality, psychic abnormalities* and *alcoholism* in the relatives of offenders.

Regarding *criminality,* it has been stressed that the various studies operate with varying and vague concepts of crime. The investigations, as a rule, show a higher crime rate in the relatives of grave criminals or other correlation between criminality in the groups investigated and the family members of these groups; however, it is generally an open question whether the correlation found here is (chiefly) traceable to heredity or to environment. A few investigators, having tried to separate the environmental factor from the hereditary factor (in particular *Kuttner*), arrive at results largely supporting the hereditary view; the value and the reliability of these investigations, however, are subject to doubt.

In the field of *psychic abnormalities* in terms of family taint, more recent investigations hardly afford ground for assuming that *insanity* or *feeble-mindedness* are particularly frequent phenomena among the relatives of criminals or more particularly of grave criminals. These investigations (especially that of *Stumpfl*), however, show a markedly higher frequency of *psychopathy* among the relatives of recidivists and this is generally taken as evidence of an hereditary correlation between criminality and psy-

chopathy in the family. On the other hand, certain sources of error and weak points in these investigations are pointed out and it is stressed that the only conclusions which may be drawn are of the inheritance of psycho-pathological dispositions (psychic inferiority), not of a direct predisposition to criminality.

As regards *alcoholism,* it is recognised that alcohol addiction is a very frequent phenomenon among the relatives of grave criminals, but this is considered no proof of direct hereditary consequences of alcoholic poisoning, whereas, in addition to environmental injuries, a correlation is supposed to exist between the predisposition for alcoholism and the predisposition for crime.

Finally, the *twin studies* have been discussed at some length, including their results in this field. The assumption is challenged that this method has afforded evidence of anything like a fatal criminality determined by an hereditary disposition.

All things considered, the more exact studies conducted so far can hardly be said in any one point to have afforded conclusive *evidence* of the predominancy of hereditary over environmental factors in the genesis of crime. Full room is left for the assumption, which in view of the general character of the factors of disposition and environment is *a priori* obvious, that the development and the shaping of criminal behaviour are due to an interaction between inheritance and environment and that the mutual strength of the two factors ranges over all degrees from person to person and from situation to situation. It is for future research to establish, if possible, the closer connection in this field.

It should further be noted that the problem of heredity, as regards criminology, *is not exhausted* by the problems dealt with in the preceding part, which have had investigations only in the form of family studies in view. In the *following* exposition, being directly concerned with the offender's own person, the hereditary question will also be touched upon, though indirectly. To the extent to which constitutional qualities, certain psychic abnormal-

ities, etc., in the offender himself, are considered of importance to his criminality, this assumption inevitably involves recognition of the significance of the hereditary factor.

ANTHROPOLOGICAL INVESTIGATIONS AND CONSTITUTIONAL STUDIES.

18.

CRIMINO-ANTHROPOLOGICAL INVESTIGATIONS.

While the criminalistic hereditary research, discussed in the preceding chapter, tends to illustrate the importance of the endogenous hereditary factors in the causation of crime by demonstrating similarities between different groups of family members in regard to criminality and crimogenic presuppositions, crimino-anthropological research is concerned with the question of the occurrence of innate peculiarities in highly criminal persons. This research aims primarily at physical (somatic, anatomic, morphologic) characters capable of being measured, weighed and counted, but in this connection it is also concerned with mental qualities.

Criminal anthropology played a decisive part in the early period of criminological science, during the years about 1870 until 1900. Though the idea of a connection between a criminal character and physical, more especially physiognomic characteristics was by no means new, Lombroso's and his followers' publications on a scientifically established interrelation between them made quite a sensation, in particular the bold theories (concerning the "born criminal", concerning atavism and epilepsy as basic factors in the causation of crime) advanced to account for this correlation. According as the untenability of these theories was established, criminal anthropology fell into disrepute and it became general to deny it any importance. However, there exist some more recent works which go to show that criminal anthropology has not yet been played out.

Lombroso's Theory of the Degenerative Stigmata of Offenders[1]).

The starting point of Lombroso's doctrine was a number of craniometrical investigations of the skulls of criminals. Gradually the investigations were extended to include a multitude of anatomical, physiological and mental factors, and more and more persons were included in the groups. His first book, published in 1872, embraced the anthropometry of 400 Venetian criminals; by 1892 he had examined 25,000 criminals. In the following pages only that part of his doctrine relating to the occurrence of the so-called degenerative stigmata in criminals will be discussed. The resultant theory of a born criminal type, predestined to crime and distinguished by an accumulation of degenerative stigmata, has been discussed and criticised in the preceding part. It is not necessarily interrelated with the doctrine of the actual occurrence of physical characteristics in criminal groups and its rejection is, therefore, not tantamount to the untenability of the latter doctrine.

For the sake of connection, it should be mentioned here that Lombroso will include a criminal under the criminal type only if he has a large number (no less than 5) symptoms of degeneracy and that, in later works, he admits that no less than 65 per cent. of ordinary criminals present no outward symptoms of degeneracy whatever[2]).

The idea that character traits are reflected in features, shape of head and other visible characteristics is thus an old one. It appeared already in Greek literature and was later, before Lombroso, taken up by *Lavater, Gall, Spurzheim* and other authors. The concatenation of especially criminal, anti-social dis-

[1]) *Vide Lombroso,* Crime: Its Causes and Remedies, London 1911, pp. XXV and 365 *et seq., Aschaffenburg,* Das Verbrechen, Heidelberg 1933, pp. 190 *et seq., Wulffen,* Kriminalpsychologie, Berlin 1926, pp. 127 et seq., *Exner,* Kriminalbiologie, Hamburg 1939, pp. 177 *et seq., Kenny,* English Studies in Criminal Science, Vol. IV, London 1945, pp. 1 *et seq.*

[2]) *Lombroso,* Neue Verbrecher-Studien, Halle 1907, p. 117.

positions with specified physical and mental characteristics and the systematical treatment of this concatenation is the novel feature of Italian criminal anthropology. The designation of these characteristics as "degenerative stigmata" denotes a connection with Morel's theory of degeneracy.

Various designations of these features or stigmata exist. With a particular view to physical marks the term *stigmata hereditatis* is employed as opposed to pseudo-stigmata, which are acquired during an illness, such as rachitis, or otherwise during life.

The most important physical symptoms of degeneracy are said to be anomalies of the skull, the facial bones, the ears and other organs of sense, feminism in men (and masculinism in women), anomalies of the sexual organs, etc.

The following is a list of some of the Lombrosian degenerative stigmata:

(1) Cranium: little cranial capacity, premature union of the median suture.

(2) Facial bones: low, receding forehead, facial protuberance, greatly developed jaws, projecting cheekbones (zygoma), abnormally large frontal sinuses, anomalies of the orbits.

(3) Brain: deviations from the normal weight, in particular deficiency; form of brain: atypic formations in the gyri.

(4) Ear anomalies, in particular large projecting ears.

(5) Strabismus, "ferocious look".

(6) Lip anomalies, in particular thin upper lip.

(7) Teeth anomalies (abnormal position and development of teeth).

(8) Palate anomalies.

(9) Hair: wolly and curly hair, thick hair coupled with little or no growth of beard.

(10) Skin: supernormal pigmention of skin, abnormally wrinkled.

(11) Supernumerary fingers (polydactylism), union of fingers (syndactylism).

(12) Supernumerary mamillæ (hypertely), abnormally formed mamillæ.

(13) Abnormally formed sexual organs.

(14) Abnormalities of physique: feminine bust and broad hips in men, masculine forms in women; infantilism; anomalous asymmetric development; long arms in proportion to the body.

(15) Lefthandedness, stammering and other functional anomalies.

"Psychic degenerative stigmata" supposed to be characteristic of the genuine criminal type are asserted to be present, cheek by jowl, with the physical degenerative stigmata. As such are emphasised: insensibility to pain, in particular in respect of wounds (disvulnerability), defects in the field of emotions, including lack of remorse[1]), excessive laziness, impulsivity, vanity, inclination for tattooing, etc.)

Rejection of the Theory of a Criminal Type based on Degenerative Stigmata.

Criticism of Lombroso was not long in setting in. Inaccuracies in his measurements and in his exposition, untenable generalisations, lack of control material, etc., were demonstrated. As particularly regards the theory of the degenerative stigmata, later research has disproved the details of Lombroso's results, though it has generally admitted their grain of truth, *viz.* that an accumulation of physical anomalies are indicative of biological inferiority.

Of the works having disproved Lombroso's findings the most important are those of medical anthropologists, such as *A. Baer,* Der Verbrecher in anthropologischer Beziehung, Leipzig 1893, and *Ch. Goring,* The English Convict, London 1913; Abridged Edition, London 1919. Of Danish literature may be mentioned *Chr. Geill,* Studier over danske Forbrydere, 1906, whose investigation of somatic degenerative stigmata in 1845 criminals resulted in these stigmata being found present in the recidivists in no considerably higher degree than in the first offenders *(pp. 150 et seq.).*

[1]) Vide below p. 211.

In particular under the influence of *Goring*'s extensive investigation, conducted according to strictly scientific method, which in regard to the physical characteristics concluded as follows: "No evidence has emerged confirming the existence of a physical criminal type" (pp. 96—97), it has been the rule to pass an absolutely rejective judgment on Lombroso and his school, *vide, e. g., Sutherland:* "This school ... delayed for fifty years the work which was in progress of the time of its origin and in addition made no lasting contribution of its own"[1]).

The rejection of Lombroso's exaggerated and often precipitate contentions of criminal characteristics has favoured the conception denying any distinctive features in the criminal population, a conception that is borne out by the immediate consideration of a general group of prisoners, *vide J. Devon,* The Criminal and the Community, London 1912, p. 11, who with particular reference to first offenders observes that they are "principally remarkable for the absence of what the books call criminal characteristics".

Well-known, too, is *Goring*'s scornful remark after a comparative examination of the cephalic measurements of criminals and undergraduates from various universities (p. 80): "In fact, from a knowledge only of an undergraduate's cephalic measurements a better judgment could be given as to whether he were studying at an English or Scottish University than a prediction could be made as to whether he would eventually become a University professor or a convicted felon".

More Recent Theory upholding the Doctrine of Degenerative Stigmata.

In spite of the general line indicated here, more recent literature still affords examples of the doctrine of correlation between criminality and the presence of degenerative stigmata not having been quite discarded, though the details have had to be revised.

On *Hooton*'s investigations *vide* below. — Here mention may be made of the Belgian criminologist *de Greef*'s investigations of

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[1]) Principles of Criminology, New York, 1947, p. 54.

the "anatomo-physiological personality of the criminal"[1]). In conformity with *Louis Vervaeck,* de Greef emphasises a number of anatomic deviations in criminals, including in particular "la grande envergure" (the distance from finger tip to finger tip, the arms being stretched out; predominance in relation to the height in excess of 10 cm is considered a serious degenerative stigmata), obvious asymmetries of the cranium (plagio-cephaly), serious deformities of ears, etc. As a general view it is stressed that degeneracy is not indicated by one stigma (tare), but by a combination of a multiplicity of stigmata (multiplicité des tares), which, indeed, had already been emphasised by Lombroso. The author gives importance to a thorough examination of the general physical conditions of the criminal. "Il faudrait se garder de croire qu'on puisse négliger un détail, et se garder de penser qu'un détail explique un délit".

The Theory of Physical and Mental Inferiority.

While, as mentioned, Goring altogether rejected the doctrine of special degenerative stigmata as characteristics of a criminal type, his investigations of the criminals, compared with the control-groups, showed a distinct *physical inferiority* in the majority of the former. The whole of the criminal material examined, except the group of fraudulent criminals, showed statistically significant differences in regard to stature and weight, and the thieves (amounting to 90 per cent. of the material) were also inferior in general physical development[2]). A number of other later investigators have arrived at the same result.

Belgian criminal anthropology has drawn up a special index of physical strength, based on the relation between stature, weight and chest circumference (*Vervaeck*'s index de robusticité); *de Greef,* p. 138, stresses the typical inferiority of criminals in relation to this index. This author bluntly concludes from the

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[1]) *Étienne de Greef,* Introduction à la criminologie, Bruxelles 1946, pp. 134 *et seq.*

[2]) *Charles Goring,* The English Convict, London 1919, p. 121.

investigations concerning the physiology and morphology of criminals that criminality is due to inferiority ("on constate quasi régulièrement que l'infériorité physiologique ou acquise est une condition de la délinquance") (p. 153).

Along with their general physical inferiority Goring found a significant defect in general intelligence in his group of criminals[1]). His ultimate conclusion[2]) is that (English) criminals are selected by a physical condition and a mental constitution which are independent of each other; the physical feature associated with criminality is a *generally defective physique,* the vital mental constitutional factor in the etiology of crime is *defective* intelligence[3]).

This result has played an important part in more recent criminology, where a general validity has often been ascribed to Goring's conclusions. It is unwarranted, however, to draw wide conclusions on the basis of the group of prisoners he investigated, particularly since *W. Norwood East* has published in 1942 the results of an investigation of 4,000 young English delinquents and has demonstrated that Goring's findings do not hold in the face of this evidence[4]).

East found no connection between recidivism and physical conditions. There was no statistically significant difference between the average heights of first offenders and those of recidivists. Nor did the criminals show any tendency to a lower height and weight than the non-criminal control-group of the same age. It appeared, on the contrary, that the weight of young offenders with several convictions was somewhat higher (East, pp. 167 *et seq.*, 201 *et seq.*). East considers that the discrepancy between

1) *op. cit.*, pp. 162 *et seq.*

2) *op. cit.*, p. 184.

3) *Cf.*, against this assumption, *Torsten Sondén,* Tidskrift för Kriminalvård, 1948, pp. 9 *et seq.*, and below pp. 172 *et seq.*

4) *W. Norwood East,* The Adolescent Criminal, London 1942. — Vide also *Glueck,* Unraveling Juvenile Delinquency, New York 1950, pp. 183 *et seq.* whose delinquent group showed superiority in bodily size, etc., over the non-delinquents.

his and Goring's results may be due to the inclusion by Goring of some feebleminded criminals with an inferior physique.

Hooton's Neo-Lombrosian Doctrine.

A recent anthropological criminal investigation is the Harvard Professor *Ernest A. Hooton*'s measurements and statistical analyses of a mass of Americans which resembles a modern American edition of a neo-Lombrosian doctrine[1]) in its findings on an anthropological special character for criminals in general and for individual groups of criminals (thieves, murderers, sexual offenders, etc.).

Hooton considers it as an *a priori* probable assumption that the behaviouristic tendencies of man are associated in some fashion with his physical characteristics, as they are among the higher species of animals (p. 5). Groups of human beings with markedly different modes of behaviour (criminal and non-criminal) must, in order to demonstrate this interrelation, be subjected to a long series of morphological and metric observations.

Of the morphological observations, (pp. 45 *et seq.*) Hooton pays attention to: moles, tattooing, freckles; quantity, texture, form and colour of hair, skin colour, eye colour, shape of forehead, form of nose, lips, prognathism (projection of upper and lower jaw), chin, teeth, palate, ears, neck, slope of shoulders etc. (a total of 33 items of investigation with numerous subgroups).

As metric conditions (pp. 93 *et seq.*) he mentions: age, weight, height, shoulder breadth, chest depth, chest breadth, sitting height, head length, head breadth, head height, head circumference, facial height, nose height, nose breadth, ear length, ear breadth, etc.

The differences ascertained from these observations are compared as between various groups of the people observed, the correlation between the average findings among criminals and non-criminals being of particular interest (pp. 197 *et seq.*). The most important results may be recapitulated as follows: (pp. 197 *et seq.*, 247 *et seq.*):

1) *Ernest A. Hooton,* The American Criminal, I, Harvard University Press, 1939; same author, Crime and the Man, Harvard University Press, 1939.

The criminals, on the average, are distinctly inferior to the non-criminals in weight (even after correction for age differences), they are of smaller stature, inferior shoulder breadth, chest depth and breadth, and head circumference; their facial height is significantly smaller, as is their nose height; their ears are shorter, their nose breadth larger, their ears broader in relation to length and their faces shorter in relation to breadth. As regards hair, the investigations show that the criminal group has probably less beard and body hair and more head hair. More criminals than non-criminals have red-brown hair, and very light or very dark shades of eye colour. The morphological observations confirm the contention of the Italian School that the criminals more often have low and receding foreheads, short and relatively broad noses, and thick or thin rather than medium nasal tips. On the other hand the investigation does not bear out the supposedly frequent occurrence of extremely degenerated or malformed ears or of exceptionally strongly developed jaws.

Hooton strongly emphasises that such differences are but statistically observable average differences, not marks to be relied upon for purpose of individual diagnosis. The idea of finding the group type in the particular individual is rejected or, as the author puts it on page 309: "An accurate description of an average gangster will not help to catch a Dillinger".

The general conclusion of the investigation, which also includes a number of sociological features to be discussed below, is that criminals, considered *en bloc,* are a group of sociologically and biologically inferior individuals; the final conclusion, which the author himself styles a hypothesis, being that the physical inferiority is of principally hereditary origin (p. 308).

To this summary of the general characterisation of the criminals as a group, Hooton adds statistical proofs of the occurrence of special anthropologically *differentiated criminal types in the case of the different types of crime, vide* pp. 116 *et seq.,* 128 *et seq.,* 188 *et seq.* It is a main point in the author's exposition that "different physical types of men show diverse criminal tendencies" (p. 196), which point, after a number of specified corrections,

he claims to prove statistically, *vide* summary on pages 270 *et seq.* According to these statistical findings, for example, murderers turn out to be heavier and taller than criminals in general; they have a larger chest diameter, broader jaws and relatively narrower shoulders (p. 271). There are significant characteristics in nine of the ten groups into which the types of crime have been divided.

Finally, Hooton makes a *classification by body build types.* He assumes a correlation between such types and modes of behaviour (p. 187), which according to the statistical average calculations results in tall, heavy men being the predominant type in first degree murder, tall, slender men the predominant type in second degree murder (homicide) and robbery, short, slender men in burglary and larceny, and short, heavy men in rape and assault (Table IX, 34, p. 178).

Hooton's investigation and conclusions have been the subject of *conflicting judgments in recent American criminology.* The general view, however, is one of critical reserve. His statistical technique is criticised and his control-groups considered too small and too unbalanced (some of the non-criminals (fire men) being exceptional physically); likewise reference is made to other crimino-anthropological investigations conducted in the United States which have reached negative results, as regards the correlation asserted by Hooton.

Vide further *William B. Tucker* in Journ. of Crim. Law and Criminology XXXI, 1940, pp. 437 *et seq.*, who himself takes exception to the criticism raised against Hooton. Particular opposition has been raised to Hooton's contention that a biological inferiority is a basic feature in criminals and that this inferiority is hereditary, cf. *David Abrahamsen,* Crime and the Human Mind, London 1945, p. 41.

Summary.

In summing up the positive results of crimino-anthropological research it must be recognised that they are very meagre. The *original contention* that grave criminals showed physical degener-

ative stigmata is dead. Disagreement prevails as to the existence of distinguishing features, *only demonstrable statistically,* in criminals and criminal sub-groups. The investigations which agree that they exist, show conflicting results in essentials. Only a more general agreement remains that some of the criminal groups investigated have proved inferior to the normal population in weight and stature; but that this inferiority is biological hereditary is unconfirmed and has been challenged. Since the large majority of the criminals investigated sprang from the lower social class and had committed offences against property — 90 per cent. of the prisoners in Goring's investigation had been convicted for theft — it is just as easy to assume from the statistics that their physical inferiority is due to malnutrition in childhood and other external factors, as that this defect has a biological and hereditary cause and can therefore be traced to the "nature" of the criminals.

19.
CONSTITUTIONAL STUDIES

Whereas the term anthropology is used to designate the study of the individual parts of the body (primarily the cranium), the *constitutional study* refers to the study of persons as physico-mental entities.

The concept of *constitution* is employed in varying senses in this connection. Some authors, *e. g. Kretschmer,* include under "constitution" only individual *hereditary* qualities whereas *Kinberg,* for example, includes individual proclivities of reaction, provided they are the product of the individual's disposition or of normal (non-pathological) environmental factors[1]). This wider determination of concept is no doubt preferable, it being impossible to isolate the disposition from internal and external factors

[1]) *Olof Kinberg,* Det biopsykologiska konstitutionsproblemet, Människokunskap och människobehandling, Stockholm 1941, pp. 327 *et seq.*

in which it has developed and been shaped. There is a strong case for making the concept of constitution so wide as to include "the total sum of the inherited and acquired qualities of the individual" *(Goldkuhl)*.

Constitution is a wider concept than *temperament,* which is particularly associated with the mind of the individual, designating his habitual emotional disposition and manner of reacting.

Other related concepts are *character* and *personality*. Definitions of them vary. As in ordinary usage, *character* may here be determined as the dominant psychic stamp of a person, as it normally declares itself in his behaviour in essential relations. *Personality* is often used to mean the valuable, developed, firm character. In a non-evaluating sense personality is the sum-total of the psychic qualities of the individual human being under an ego-conscious will, cf., *e. g., Francis Aveling,* Personality and Will, Cambridge 1931, p. 214.

Modern constitutional study has been founded by *Ernst Kretschmer,* whose main work, "Körperbau und Charakter", appeared in 1921. The theories advanced in this book concerning a correlation between physical and characterological types has been tested in a series of investigations with particular reference to crime, and Kretschmer's type designations have been widely included in the theoretical and practical classification of criminals, also in this country.

The Principal Features of Kretschmer's Doctrine[1]).

Kretschmer claims to have found his types in an empirical way. The subjects of his investigations were 260 patients, 85 of whom belonged to the group of manic-depressive insanities (denoted by Kretschmer as the circular form group) and 175 to the schizophrenic insanity group. Consideration was given to morphological

1) *Ernst Kretschmer,* Körperbau und Charakter, 19. Auflage, Berlin 1948, 20 Auflage, Berlin 1951.

(external physical) similarities between the patients. These similarities were made the subject of average calculations, on the basis of which the typification took place. Therefore, one must not expect, as the popular interpretation of the theory often suggests, to find pure examples of Kretschmer's types in concrete individual cases. On the contrary, the type will always be veiled by individual features. The affinity, discussed below, between body build and character or behaviour is thus according to K. himself only demonstrable statistically, as it is in the case of the anthropological criminal types described by Hooton.

Of individual body build types, Kretschmer says: "By the methods described three recurrent main types of body build have emerged from our clinical investigations, *viz.* the so-called *leptosomic (asthenic), the athletic and the pyknic type*". They are found in both men and women, but are less pronounced in women. In addition to these large main types there are various small groups included under the term *dysplastic special types* and characterised by physical disproportions.

The *leptosomic* or *asthenic* type is characterised, by little fat accumulation coupled with unreduced length; the male *athletic* type by the strong development of the skeleton and the muscles; the *pyknic* type by the strong development of the outsides of the cavities of the body (big head, chest and abdomen) and at proclivity for fat accumulation. All of the three types are "normal"; none of them is generally better equipped for life than any of the others.

In examining the incidence of these types of physique in Kretschmer's circular and schizophrenic form groups it appears that nearly all of the pyknics belong to the circular (manic-depressive) patients and nearly all of the leptosomes and athletes to the schizophrenic patients.

The following conclusions are drawn: 1) *There exists a distinct biological affinity between the manic-depressive mental disposition and the pyknic type of physique.* 2) *There exists a*

distinct biological affinity between the schizophrenic mental disposition and the leptosomic and athletic types of physique (as well as certain dysplastic types of physique)[1]). Confirmation of these results is claimed by later investigations based on far greater sources.

On page 37 Kretschmer makes a tabular comparison of a series of investigations of more than 4,000 insane persons showing that two thirds of the manic-depressives were pyknics or pyknic mixtures, while two thirds of the schizophrenics were leptosomic or athletic.

While what has been stated so far only directly concerns psychiatry, Kretschmer's further argument tends to show that there is a close correlation between the combination *psychosis-body build* and the combination *temperament-body build.* The psychoses are "but isolated centres spread in a network of *normal* physico-characterological relations"[2]).

It is possible to form an idea of this correspondence by studying the pre-psychotic personality of the insane person (his personality as it was before he became insane); but it is more worth while, as a rule, to study the nearest relatives (characterological family study). According to Kretschmer you will then find a close relationship in mind, a *spiritus familiaris,* within the individual families, corresponding to the psychosis of the subject[3]). The sane and the insane have the same mental basic stamp. "Dies alles ist aus einem Guss". "Coming from the psychic environment of the schizophrenic families into that of the circular is like walking from a cool, closed vault out into the open warm sunshine".

Along these lines, namely with a supply of insane patients as his starting-point whose relatives he examined, Kretschmer arrived at his famous doctrine of temperaments (or personalities) in association with the main forms of the psychoses. Kretschmer has

1) *op. cit.,* p. 36.
2) *op. cit.,* p. 142.
3) *op. cit.,* pp. 140 *et seq.*

coined the terms *schizoids* and *cycloids* to denote "the abnormal personalities, fluctuating between sanity and insanity, that reflect the psychological basic symptoms of the schizophrenic and circular psychoses in a mild degree". Such types are often found as a pre-psychotic personality in the insane person himself and, next, in his nearest relatives[1]).

Cycloid temperaments are fully described on pages 153 *et seq.* They are characterised by joviality, good-nature, kindness, geniality, but temperamental features like melancholia, tendency to take things too much to heart, and the like are found as well. The proportion in which hypomanic and melancholic elements coact in the cycloid personality is termed the *diathetic proportion.*

Schizoid temperaments are described by Kretschmer, *inter alia,* as follows: schizoids have a surface and a depth (*cf.* the proverb: "Still waters run deep"). "Many of them are like Roman houses with bare fronts, villas that have closed their shutters to the hot sun, but where festivals are being held in the dimly-lit rooms inside" (p. 169).

There are schizoids whom we can live with for ten years without being sure that we know them. — A shy girl, as quiet as a lamb, has been in service in town for months; she is gentle and never contradicts anyone. One morning the three children of the house are found murdered and the house is on fire. She is not insane, she knows what she has done. She smiles vaguely while confessing the deed (p. 169). — The shy, awkward young man, not to be aroused, who gives an apologising, slightly ironical smile, who says nothing, some day publishes a volume of poems full of an intense feeling for nature; every knock given him by a rough fellow in passing has been transformed into an inner tragedy, expressed in elegantly formed rhythms (p. 169). — The most frequent schizoid character traits are briefly: unsociability, reserve, lack of humour, eccentricity. There are also types marked by a psychic oversensitivity (hyperaesthestic elements) and, as contrasts, types marked by psychic insensitivity (anaesthesia). The majority of the schizoids, however, are not either oversensitive or cold, but oversensitive and cold at the same time (p. 173),

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[1]) *op. cit.*, p. 154.

cf. Hebbel's picture of Uhland: "a drop of racy wine in a vessel of ice". — Altogether: the schizoid does not integrate himself with his environment. There is still as it were a pane of glass separating him from it (p. 173).

The mixture in which the hyperaesthetic elements are combined with the anaesthestic elements in the individual schizoid Kretschmer terms the *psychaesthetic proportion* (p. 174).

Just as according to Kretschmer's theory there is no sharp line of demarcation, but flowing transitions from the constitution-types found in the insane (schizophrenics and manic-depressives) to the non-insane, but still abnormal constitution-forms which he characterises as schizoid and cycloid personalities, so are there flowing transitions from the latter to *certain types within the normal-psychological field,* to the average human beings he calls *schizothyme* and *cyclothyme*[1]).

The method of determining these types was the following: From among sane persons whom he knew very well the author selected about 150 whose body-build had pronounced leptosomic (asthenic), athletic and pyknic features. In this way two types of temperament emerged one of which, the cyclothyme type, corresponded in all essentials with the pyknic make-up, the other one, the schizothyme type, with the physical forms of the schizophrenic clinical form.

In *cyclothyme normal persons* the same order of temperaments was found as in the manic-depressive clinical form in a morbid shape: at one end the hypomanic natures, at the other (far less frequent) the gloomy (schwerblütige) dispositions, the "quiet emotional person". Between these poles is the quite normal middle group characterised, in conformity with Bleuler, as of a syntonic temperament.

Similarly, schizophrenic and schizoid character traits are found

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1) *op. cit.,* pp. 208 *et seq.* — Kretschmer has further, in the later editions of this work, described a special temperamental type: the viscous (dull, composed) temperament characteristic of the athletic constitutions, *vide op. cit.,* pp. 215 *et seq.*

in *schizothyme normal persons.* Main types among these are the estheticians of quality, the unrealistic idealists, the cool, dominating natures and egoists, and the dry and barren, while the *cyclothyme* main types are the gay talkers, the composed humourists, the quiet emotional persons, the comfortable enjoyers and the active, realistic persons.

The interrelation between these types from normal psychology and the abnormal types described above is strongly emphasised by Kretschmer, *vide, e. g.,* p. 209: We no longer look upon the world through institutional spectacles. We no longer consider definite personality types as psychopathic abortive forms of psychoses but, conversely, consider psychoses as caricatures of normal personality types. The psychoses then merely constitute less frequent extremes of common large constitution groups of normal persons.

With this interrelation clear, Kretschmer extends the term schizothyme personalities to include the whole of the large constitution group from which the schizophrenics are recruited, while the cyclothyme personalities form the constitution group recruiting the manic-depressive psychoses (Kretschmer uses the designation of "circular" psychoses). The terms schizothyme and cyclothyme have nothing to do with the question of insane or sane, being but comprehensive terms for "large general biotypes" (p. 200).

The terminologies employed appear in the below table:

Cyclothyme temperamental group corresponding to the pyknic type of physique			Schizothyme temperamental group corresponding to the leptosomic and athletic types of physique		
Normal	Abnormal		Normal	Abnormal	
Cyclothyme normal persons	Cycloid psychopaths	Manic-depressive insane persons	Schizothyme normal persons	Schizoid psychopaths	Schizophrenic insane persons

Or the principal distinctions may be drawn up as follows:

	Normal	Psychopaths	Insane
Leptosomes	Schizothyme	Schizoids	Schizophrenics
Pyknics	Cyclothyme	Cycloids	Manic-depressives

As mentioned above, Kretschmer's basic types are artificial products, inasmuch as in pure forms they only exist as statistically demonstrable average types. Even in the most waterlight cases, there is always an admixture of heterogeneous inherited elements. Kretschmer calls this mixture the *constitutional alloy*[1]).

To this essential reservation must be added other significant modifications of the types' appearance:

It must be recognised that what Kretschmer calls "Überkreuzung" often appears, a leptosomic (asthenic) body build combined with a circular personality or a pyknic body build with a schizophrenic personality[2]).

Further, a *"change of dominance"* ("Erscheinungswechsel") occurs to some extent, meaning the successive dominance and recession of phenotypical characteristics of mixed hereditary dispositions. Pyknic corpulency, for example, often develops only at a definite age while elements of other types of physique become dominant at other times. Quite analogous conditions are known in regard to the development of character in many persons[3]).

Finally, the importance to the body build of *exogenous factors,* including diseases such as tuberculosis, as well as the influences of nutrition and work, should not be disregarded[4]).

Two detailed investigations of the occurrence of the Kretschmer constitution-types and their relation to insanity have been under-

1) *op. cit.,* p. 125.
2) *op. cit.,* p. 126.
3) *op. cit.,* p. 127.
4) *op. cit.,* pp. 135 *et seq.*

taken by *Max Schmidt* and *Erik Strömgren,* who in their respective treatises "Körperbau und Geisteskrankheit", Berlin 1929, and "Om Mulighederne for en exakt Uddifferentiering af Konstitutionstyper", Nordisk Medicin 1942, pp. 157 *et seq.,* attach a certain restricted relevancy to the typology; *vide* for further particulars the works referred to.

Criminological Investigations on the Basis of Kretschmer's Typology[1]).

In Germany, in particular, a number of investigators have examined large criminal groups with a view to the relative frequency of the different constitution-types. Any evaluation of the results, especially as to whether any of the types occur more or less often than in the normal population, is complicated by a certain unreliability in the comparative figures for the non-criminal population.

As regards the average European population (in particular that of Germany), *Kretschmer — op. cit.,* p. 285 — has estimated the following incidence: pyknics well over 20 per cent., leptosomes and athletics together 40 to 50 per cent. (the leptosomes represent more than one half of this group, but a definite separation has proved impracticable for technical reasons), dysplastics 5 to 10 per cent., mixed forms scarcely 30 per cent.[2]). By collating these figures with the data available concerning the incidence of constitution-types in different criminal groups (investigated by

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[1]) Of such investigations may be mentioned: *Kurt Böhmer,* Untersuchungen über den Körperbau des Verbrechers, M.f.K. 1928, pp. 193 *et seq.; S. Blinkow,* Zur Frage nach dem Körperbau des Verbrechers, M.f.K. 1929, pp. 212 *et seq.; M. Riedl,* Über Beziehungen von geistig-körperlicher Konstitution zur Kriminalität und anderen Defekten, M.f.K. 1932, pp. 473 *et seq.; Hans W. Gruhle,* Antlitz, Gestalt, Haltung, Gebaren des Verbrechers, M.f.K. 1939, pp. 215 *et seq.* (230 *et seq.*); *Georg Schwab,* Über die Beziehungen der körperlichen Konstitution zum Verbrechertyp, M.f.K. 1941, pp. 213 *et seq.; W. A. Willemse,* Constitution-Types in Delinquency, London 1932; *Landecker* in Journ. of Criminal Law and Criminology XXXI, 1941, pp. 561 *et seq.* — *Kretschmer* himself deals with the question in *op. cit.* pp. 277—305.

[2]) As far as the Danish population is concerned the following incidence, according to *Strömgren,* would apply: pyknics 20 to 25 per cent., leptosomes 20 to 25 per cent., athletics 5 to 10 per cent.

Schwab, Saza and *Riedl) Kretschmer* reaches the result that the evidence is conclusive that *pyknics have a relatively less share in the total of criminality* than have the other constitution-types, just as relatively fewer of them are recidivists.

The more general results of the investigations may be recapitulated as follows:

The *schizothyme types* — of leptosomic or athletic body build — *show a greater criminal tendency than do the cyclothyme. Their criminality declares itself earlier, the rate of recidivism is higher and the social prognosis accordingly weaker. Broadly speaking, the leptosomes and the athletics are the predominating types among the persistent criminals, while the pyknics predominate among the occasional offenders.*

Exner, Kriminalbiologie, Hamburg 1939, gives on page 182 a summary of the results of a number of investigations of Germans including 566 criminals. Of these 40 per cent. were leptosomes, 50 per cent. athletics and only 10 per cent. pyknics. — *Georg Schwab,* M.f.K. 1941, pp. 213 *et seq.,* has investigated 3,052 prisoners from the Ludwigsburg penitentiary, whose types of physique has been determined according to the Kretschmer constitution-scheme. He gives the following percentages for type of physique among the prisoners: Pyknics 9.7, leptosomes 33.7, athletics 13.4, dysplastics 7.1, mixed forms 36.2. According to the data of the criminal records, the leptosomes start earlier on a criminal career and have more convictions than do the pyknics.

It should be noted, however, that the low percentage of pyknics among the prisoners cannot straight-away be taken as evidence that criminal risk is less for pyknics than for other constitution types. For in the population to which the prisoners belong, the pyknics may not constitute at very much larger percentage than they do in the criminal group[1]).

Several investigators claim to have demonstrated a definite *correlation between the constitution-type and the predominating*

[1]) *cf. Gruhle* in M.f.K. 1939, pp. 230 *et seq.*

type of offence. They assert thus that *athletics* tend to commit crimes of violence, robber and homicide, *leptosomes* petty larceny, and *pyknics* fraud.

Kurt Böhmer states in his account of an investigation of 100 prisoners, M.f.K. 1929, pp. 193 *et seq.*, that the incidence of physique types among the perpetrators of different types of offence shows a "remarkable correlation". All the robbers and house-breakers were athletic none being pyknics or pyknic mixtures. Of the athletics 20 per cent. had been previously convicted for vulgar crimes, of the pyknics none.

In American criminology opinions differ on the correlation between types of physique and the nature of offences: *vide* on the one hand *Hootons* affirmative answer (p. 119 above) and *William B. Tuckers'* conclusion in the Journal of Criminal Law and Criminology, XXXI, 1940, pp. 427 *et seq.*, that there is almost certainly a relationship between certain morphological variations and certain criminal proclivities, whatever other factors play a role (p. 435); *cf.* on the other hand *David Abrahamsen,* Crime and the Human Mind, 1945 p. 41, with accounts by *Benjamin Frank* and *P. S. Cleland,* Journal of Criminal Law and Criminology, XXVI, 1936—37, who has investigated more than 500 prisoners in New Jersey Reformatory and found no relation between type of physique and nature of the offence.

Of greater interest than rough tabular divisions of the different constitution-types in relation to definite offence groups are the attempts made to determine *the correlation between the constitution-type and the psychology of the criminal's behaviour.*

Among the first of such investigations may be mentioned *Kurt Böhmer*'s account in M.f.K. 1928, pp. 207 *et seq.*, of three homicides committed respectively by a leptosomic (asthenic), an athletic and a pyknic criminal. The technique of the leptosomic murderer is described as follows: he works with a great deal of caution, plans and executes the crime (robbery with murder of an 82-year-old independent gentleman) in cold blood, leaves no trace behind him and defends himself ingeniously in court. The athletic, who has shot at travellers for gain and has killed one of his pursuers, was also, at the outset, acting according to a definite

plan; but his temperament soon got the upper hand and he kills brutally and unscrupulously, makes a vigorous fight against arrest, shows no fear and confesses openly when the game is up. The pyknic is a man whose matrimonial difficulties have got beyond him and who, in a sudden fit of excitement, kills his two boys and shoots himself. The story is not vulgar in the same sense as is that of the two other murderers. It is not the outcome of active energy, but of a passive attitude to life with which he cannot cope.

Another investigation tending to support Böhmer's findings is an account of 100 murderers published by the Russian criminologist *S. Blinkov* in M.f.K. 1929, pp. 212 *et seq.* In his view the murder committed by the asthenic is a cunning and elaborate crime, that of the pyknic a deed of passion, often one of jealousy, while the typical murder committed by the athletic is "vulgar and shameless".

Considerably more thorough in typology and psychological characterisation is *W. A. Willemse,* whose work "Constitution-Types in Delinquency", London 1932, is based on Kretschmer's systematology, but amplifies and supplements it in several points. The investigation embraces 177 young white South-African delinquents, with special reference to the occurrence of leptosomic, athletic and pyknic body build. Within the leptosomic personality a distinction is made between asthenic and more sthenic temperamental types. The asthenic temperaments are susceptible to the influence of coarser natures, and to feelings of insecurity and passivity. Cowardly offences cunningly and carefully planned, are typical of this group. These features are particularly apparent in the offences most characteristic of the group: thefts and forgery *(vide* further pp. 69 *et seq.)*. The author stresses, however, that the asthenic elements are not found in pure forms. Allowance must be made for compensatory tendencies and for the addition of sthenic or athletic elements, *vide* pp. 125 *et seq.* — The athletics are aggressively violent, fearless egocentric and calculating (p. 175). — As far as the pyknics are concerned, Willemse mentions different variants: some hypomanics are querulant, choleric, self-pitying and occasionally seriously aggressive. Others may be undaunted adventurers and gang-leaders, in whom, however, it is always possible to reveal athletic constitutional factors. A third variant is jovial optimists. In all these variants criminality, as a

rule, is the direct outcome of their temperaments: momentary aggressions, sensational joy-rides with stolen motor-cars, forming criminal gangs, wasting money, sexual excesses, alcoholic intemperance, etc. (p. 207).

Criticism of Kretschmer's Theory and of its Criminological Importance.

The main features as well as the details of Kretschmer's theory have been strongly criticised. Particular reference may here be made to *Kinberg*'s treatise: Det biopsykologiska konstitutionsproblemet[1]).

Kinberg argues, *inter alia,* that there is a radical difference between the disposition for schizophrenic and the disposition for manic-depressive psychosis, schizophrenia being a lesional insanity traceable to a pathological disposition. The psychic characteristics of the schizoids may therefore be mild manifestations of a schizophrenic disease, while the manic-depressive conditions are rooted in a natural variant of a constitutional factor common to all human beings ("constitution-radical"), *viz.* stability. The endogenous cause of schizophrenia is no doubt a disposition due to a pathological change of a gene which is an abnormal ingredient of the human genotype only found in some individuals, who have inherited it according to Mendelian rules (p. 406).

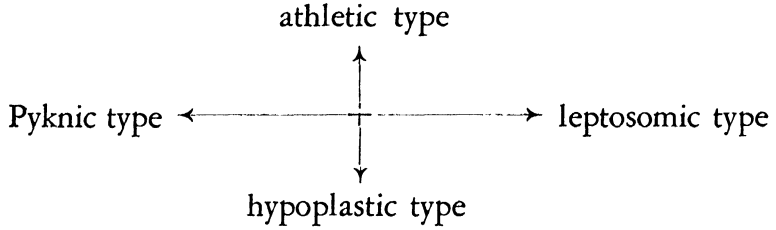
Kinberg also repudiates Kretschmer's three-link morphological system (pyknic, leptosomic, athletic) and his two-link psychical system (cyclothyme, schizothyme), disputing particularly the existence of the athletic type as an independent type (p. 398).

It may also be mentioned that *Kurt Schneider,* Die psychopathischen Persönlichkeiten, Vienna 1940, takes exception to Kretschmer's theory of gradual transitions (differences of degree) between "schizoid psychopathy" and schizophrenic insanity (pp. 41 *et seq.*) and between abnormal personality of cycloid type and manic-depressive psychosis (pp. 44 *et seq.*), there being insufficient clinical proof of such transitions.

An interesting amplification of Kretschmer's theory has been

1) In Människokunskap och Människobehandling, Stockholm 1941, pp. 386 *et seq.*

made by *Klaus Conrad,* Der Konstitutionstypus als genetisches Problem, Berlin 1941. Acording to Conrad, the body type varies partly along the line: pyknic-leptosomic, partly along the line: athletic-hypoplastic. The forms of variation may be indicated as follows:



A detailed review of this criticism falls outside the scope of this exposition. What is of interest here is primarily the application of the Kretschmer doctrine in the criminological field and the critical objections to its application.

The practical *criminalistic importance* of the typology discussed above has no doubt been exaggerated. For example *Kinberg* himself formerly thought that, in certain circumstances, importance might be attached to the morphological type of the suspected person as evidence of or against his guilt.

His comment on this subject is the following: "The connection between certain types of crime and particular morphological types may be of practical importance in several respects. In crimes of very distinctive psychological character, for instance, where the evidence is incomplete and the suspect very definitely belongs to a particular morphological type, the probability of his guilt may be increased or diminished, according as the type does or does not fit the character of the crime"[1]).

Even with these reservations of Kinberg's, it would hardly be warrantable, in our present state of knowledge, to base evidential assumptions on the type of physique. The more recent investigations, such as that of *Willemse,* prove the necessity of sub-dividing the individual physique types according to their different character

[1]) Basic Problems of Criminology, Copenhagen 1935, p. 316.

traits. It is possible that a still more refined typology may be developed on the basis of the Kretschmer main types; for the time being, however, a characterological evaluation within the normal-psychological field will in each particular case have to be based on an indvidual analysis. In this connection the study of physique types and the associated Kretschmer theory of temperaments may to some extent serve as a guide and an aid through the terminologies established by this theory; but directly and considered in isolation it can form the basis neither of evidential decisions, choice of nature of sanction (individualisation), nor of prognosis. Its importance to criminology lies in its incentives to the further systematic study of criminal personality types.

Other Type Classifications. In Particular: The Sjöbring-Kinberg Constitution Types.

The Kretschmer typology is but one of many attempts at a type classification of persons by character or temperament. Its discussion in greater detail in the preceding chapter is justified by the special rôle it has played and still plays in criminological research. As to the numerous other type classifications based chiefly on purely psychological criteria and not, like Kretschmer's, on psycho-physical correlations, reference must principally be made to psychological scientific literature.

Mention should be made of *H. Helweg*'s fine publication "Om Mennesketyper", Copenhagen 1938. The author makes here a distinction between A and B types suggestive, to some extent, of Jung's discrimination between extravert and introvert types. Helweg questions, however, whether the one type may be said to be more "introvert" than the other, the determining difference being the way in which the two types establish contact with the environment: "to A the doors to the environment are open. B must first make his way through a more or less complicated system of doors". In the B natures the outgoing lines are deflected and

tend back to the ego itself; similarly, the ingoing lines are bent back to the point of departure and lose their spontaneity.

One of the more recent typologies shall be discussed here in view of the importance ascribed to it in recent northern European criminological psychiatry, *viz.* the *Sjöbring-Kinberg* constitution theory of which Kinberg has given an account in "Människokunskap och Människobehandling", Stockholm 1941, pp. 341 *et seq.*[1]).

The theory was founded by the Swedish psychiatrist *H. Sjöbring* in a treatise of 1913. Sjöbring emphasises certain hereditary basic elements of the human personality, designated by *Kinberg* as "constitution-radicals". These basic factors are 1) *capacity,* 2) *validity,* 3) *stability* and 4) *solidity.* 1) *Capacity* is defined as the constitution factor underlying variations of *intelligence.* The other factors are not clearly defined. 2) *Validity* designates the power to produce *energy* for the brain processes. The starting-point in the establishment of this factor has been the observance of the asthenic conditions (neurasthenia, etc.) marked by lack of available energy. 3) *Stability* is "the constitution-radical of the minus variants of which the depressions (of a manic-depressive nature) are a manifestation". It is supposed to be associated with the greater or less resistance which the neural processes in different individuals meet during their process of facilitation. In other words, stability is the *tardiness* with which the psychic processes follow their course. If the facilitation is abnormally obstructed, the person is characterised as *substable,* while persons having an exceptionally unimpeded process of facilitation are termed *superstable.* The principal psychological distinguishing features of the two poles are summarised as follows: "The substable person is warm, personally interested, extensively active, concrete, realistic, mentally and physically clumsy and dull. The superstable, on the other hand, is aloof, with little interest in other people, active in an intensive direction and goes deeper into his own life. He is quicker of reasoning and movements, elegant and *dégagé.*" (As will be seen, this characterisation of the substable and the super-

[1]) *Vide,* also, *Kinberg* in Tidskrift för nykterhetsnämnderna, 1948, No. 1, pp. 2 *et seq.*

stable type is reminiscent of Kretschmer's characterisation of the cyclothyme and the schizothyme type respectively). 4) *Solidity,* finally, has reference to the constitution-radical regulating the retention of the paths worn in the brain tissue by the brain processes. It indicates the psychic power of cohesion. The starting-point in the establishment of this factor is the study of the hysteric conditions. The hysteric personality is *subsolid,* as compared with the normal. On the other hand, individuals in whom the solidity of the connections is above normal are *supersolid.* Psychological features in the subsolid comprise emotional unstableness, incoherence and inconsistency which, coupled with certain other features, convey an impression of unreliability, deception, disloyalty and mendacity. The subsolid identifies himself with the immediate situation and may exercise a strong, suggestive influence on other persons by his immediate intensity. In this connection is stressed "the large share in certain types of crime of the subsolid, more particularly such having relation to fraudulent tricks".

Each of the above-mentioned four constitution-radicals, which are thus found in all human beings, vary continuosly from normal degrees to plus or minus variants. They are functionally interrelated, but vary independently of one another. In consequence, there is a very large number of combination possibilities and a corresponding number of personality types.

For the purposes of a practical criminological classification, the psychological characterisation of the minus and plus variants in the case of the individual constitution-radicals is of particular interest. Reference may further be made to the following summary given by Sjöbring:

Subcapable: slow-witted, limited, poorly reacting, in possession of a poorer adaptability than is normal, dull, coarse.

Supercapable: clever, susceptible to impressions, reactive, adaptable, quick-witted.

Subvalid: quiet, cautious, reserved, industrious, highly strung, hesitant.

Supervalid: alert, expansive, enterprising, resourseful, persistent, self-confident, calm.

Substable: warm and interested in other persons, extensively enterprising, realistic, clumsy, dull.

Superstable: cold, intensively active, full of ideas, quick and elegant, dégagés.

Subsolid: quick, emotionable, pleasant, narrow, subjective.

Supersolid: slow, steady-going, with common sense, with breadth of vision, objective, reflective.

This typology is praised by Kinberg as far more realistic than Kretschmer's formal classifications. In recent Danish investigations of prisoners *Stürup* and *Christiansen* have tried to apply it. It must no doubt be recognised, however, that like a number of other general classifications this typology is open to substantial critical objections particularly as to the too vague definition of the marks differentiating the types, and that no attempts have been made to exactly control the alleged correspondance with the actual facts. In addition, Sjöbring's terminologies are uninformative or, rather, confusing in relation to the general sense of the terms applied and, therefore, less practical as instruments in the criminological classification.

20.
ENDOCRINOLOGICAL RESEARCH[1]).

Closely associated with the constitutional research discussed in the preceding chapter is the crimino-biological research concerned with *the importance of the function of the endocrine (ductless) glands to the human temperament* and more particularly to its manifestation in a criminal direction. This field of research, which like more recent criminal biology mainly derives its inspiration from *Lombroso,* has been cultivated particularly in Italian criminology. In northern European literature its importance has been strongly emphasised by *Kinberg,* to whose account of Italian and Spanish literature reference is made in the sequel.

Endocrinology or the theory of the ductless glands has proved that the function and functional disturbances of these glands are extremely important to the course of physical as well as mental processes. It has been ascertained through endocrinology that the functioning of the instinctive and emotional life is due not only to the nature of the brain, but also largely to the blood-chemical processes dependent on glandular secretions.

The criminalistic interest in respect of endocrinology centres, in particular, upon the following problems: 1) Whether anomalies in the secretion of the internal glands influence criminal behaviour; 2) whether a glandular operation, more particularly the removal of the male testes by castration, may be considered as a penal preventive measure or a therapeutic measure; and 3) whether on the basis of endocrinological research a type classification may be established of value to the criminological classification of criminals.

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[1]) *Olof Kinberg,* Basic Problems of Criminology, Copenhagen 1935, pp. 316—27 (Aktuella kriminalitetsproblem, Stockholm 1930, pp. 250—62) with references to literature; *Mjöen* and *Brantenberg,* Hormonene, Oslo 1939; *Richard Ege,* De lukkede Kirtler og deres Betydning, Copenhagen 1932; *Louis Berman,* The Glands Regulating Personality, New York 1928; *Nicholas Pende,* Constitutional Inadequasis, Philadelphia *1928; Max G. Schlapp* and *Edward H. Smith,* The New Criminology. A Consideration of the Causation of Abnormal Behavior, New York 1928; *Frank A. Beach,* Hormones and Behavior, New York-London 1948.

As far as the last question is concerned, various attempts have been made to establish different temperamental types on an endocrinological basis, but, so far, such typologies have provided no classification basis of value to criminology.

Vide on *Pende*'s and *Vidoni*'s "endocrine temperaments" and on *di Tullio's* typology *Kinberg,* Basic Problems of Criminology, 1935, pp. 317 *et seq.*

The other questions will be discussed at some length in the sequel; first, however, a summary should be given of the biological phenomena concerned.

Summary concerning Ductless Glands and Their Functions.

By *ductless glands* or endocrine organs are understood secretory *glands having no efferent duct.* Their secretions, the so-called *hormones,* are poured directly into the blood flowing through the glandular tissue.

The most important ductless glands are the hypophysis *(the pituitary body),* glandula pinealis (the cone gland, the pineal body, also called the *epiphysis*), glandula thyreoidea (*the thyroid gland*), glandulae parathyreoideae *(the parathyroids),* the *thymus,* the hormone-producing tissue of the *pancreas,* glandulae suprarenales *(the suprarenal glands),* and glandulae sexuales *(the sexual glands),* in women the ovaries, in men the testes.

The *hypophysis,* being the size of a hazelnut kernel and weighing only about ½ gramme, is divided into three parts; the anterior lobe, the pars intermedia, and the posterior lobe. From the pars intermedia of the hypophysis is extracted a hormone called *pituitrin* or hypophysin. This hormone acts, in particular, upon the smooth muscles. By concentration of the latter the vessels contract and the blood pressure increases. The cells situated round the very finest vessels (the capillaries) are affected in particular. The pituitrin is thus all-important to the adequate regulation of

the blood circulation of the organs. Further, the pituitrin is important because of its irritating influence on the musculature of the uterus (means of intensifying the birth pangs). Other hormones are produced in the anterior lobe of the hypophysis with different functions (growth-stimulating, of importance to metabolism and to the activity of the sexual glands). — If the hypophysis is removed in a young individual, his growth will be arrested and he will remain at a childish level of development with a tendency to accumulate fat and with a deficient development of the sexual organs and the secondary sex characteristics. A morbid hyperactivity of the hypophysis will result in acromegaly (abnormal growth of the extremities of the body).

The *thyroid gland* produces the hormone *thyroxin* containing the element iodine. A deficient supply of iodine to the organism may give rise to cretinism (feeblemindedness or idiocy coupled with a dwarfish growth). An excessive production of thyroxin will result in Basedow's disease. If the production of thyroxin is deficient, a thick pituitary layer will be created in the skin, the so-called myxoedema, which may be cured by a supply of thyroid gland substance. The function of the thyroid gland is of crucial importance to the psychic make-up. A slight decrease in its hormone production is enough to give rise to depression and hebetude.

The *parathyroids* are composed of four small bodies, the size of a pea. Removal of these glands will be fatal, accompanied by violent convulsions. The hormone of the parathyroids is supposed to regulate the calcium content of the blood that is all-important to the sensitivity of the muscle cells and the nerve cells. A deficiency of calcium gives rise to a convulsive contraction.

The *thymus* is well-developed only in childhood. It is possible that the sexual glands, at a later age, take over the function of the thymus.

The *suprarenal glands* consist of a cortex and a medulla. The cortex is the vital part, dependent on a hormone that may be connected with the muscle activity and with the oxidation processes of the organism. The hormone of the medulla is *adrenalin.* This hormone acts as a general irritant of the sympathetic nervous system. It gives rise to a constriction of the arterioles with a strong increase of blood pressure, a dilation of the bronchiæ and of the

pupils, an increased decomposition of glycogen and a resulting increased output of sugar in the blood, possibly an activation of the muscle activity. The significance of the adrenalin can be compared with a sort of mobilisation order: if danger is afoot, it issues from the suprarenal glands and is spread about in the whole body with the blood.

The *pancreas* produces the hormone *insulin*. On removal of the pancreas the sugar content of the blood is increased, and sugar is secreted in the urine.

As regards the internal secretion of the *sexual glands* and the *sexual hormones* so produced (not to be mistaken for the external secretion of the sexual glands: sperm and egg), and their crucial importance to the physical and mental constitution, reference must on the whole be made to biological literature.

Disturbances of Glandular Activity as a Factor in the Causation of Crime.

Kinberg describes a number of Italian investigations[1]). In one *Vidoni* has examined 116 young delinquents and found (morbid) changes of the thyroid gland in 56 per cent. of them. In another, *Brandino* has examined 605 prisoners and found manifest endocrine troubles in 99 cases. In a third, *Pende* has found that certain categories of criminals (the recount does not indicate which) show physical changes corresponding to those caused by a disturbance of the glandular secretions. In connection with other investigations Kinberg states that he has found irregular functioning of the hypophysis, decreased function of the sexual glands and increased function of the suprarenal glands among murderers, and decreased functioning of the hypophysis and irregular functioning of the thyroid gland among robbers and thieves.

Mjöen and *Brantenberg*[2]) state that disturbances of glandular

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[1]) Basic Problems of Criminology, 1935, pp. 316 *et seq.* Some of the results given by *Kinberg* have not been recounted directly from the investigations concerned, but are quoted from the Spanish author *M. Ruiz-Funes*, Endocrinologia y Criminalidad, Madrid 1929.

[2]) Hormonene, Oslo 1939, pp. 105 *et seq.*

activity give rise to a mentally abnormal condition that "as a matter of course must manifest itself in abnormal acts of which the best-known are criminal". As examples of endocrinically determined crimes these authors mention lust murder (without further definition) and fetishism. Further, they mention that *Berman* has indicated disturbances of the hypophysis as causes of mendacity and theft and themselves cite fear and rage as manifestations of endocrine troubles without claiming, however, that there is any downright evidence of resulting crimes being causally connected with an endocrinic disease. Unlike Berman, for example, Mjöen and Brantenberg do not consider it wholly possible to reveal particular criminal features of the mentality, or associate the latter with particular anomalies of the glands. They assume, however, a general correlation between the mental abnormality of criminals and endocrine trouble.

Essential findings over and beyond what has been stated above as to the relationship between criminality and glandular function do not seem to have emerged in northern European scientific literature and the latter includes no account of independent crimino-endocrinological investigations.

The impression of flimsiness and looseness conveyed by the northern European authors quoted in regard to the existing empirical basis of the close alleged connection between criminality and glandular function is being intensified by a review of certain American works which tend to make anomalies in the secretion of the ductless glands the basic causal factor of all criminality. Such is the above-mentioned work by *Schlapp* and *Smith,* typically entitled The New Criminology. It is asserted here that the vast majority of all criminals, misdemeanants, mental deficients and defectives are the products of bodily disorders, that most crimes come about through disturbances of the ductless glands in the criminal or through mental defects caused by endocrine troubles in the criminal's mother (viz. during pregnancy) (p. 28). In point of fact, no empirical information of any importance, only loose,

uncontrollable generalisations are stated in support of this radical assertion. As regards the actual character of glandular anomalies as a crimogenic factor, the following diffuse description is typical:

"Certain endocrine troubles make the person suffering from them timid and reserved; others bring about excessive boldness and aggressiveness. Thus, a great deal is dependent on whether one or the other hormone is predominating or, in other words, on the glandular constitution of the affected individual. For example, persons suffering chiefly from hyper-thyroidism (excessive functional activity of the thyroid gland) are but rarely criminal, and if so, they are mere petty thieves and pick-pockets. On the other hand, it is probable that persons in whom the sexual and suprarenal hormones predominate will belong to the violent criminal type, homicides, robbers, gangsters, bandits and the like" (p. 204).

This trend seems to have culminated in the 1920'es. More recent American criminology has repudiated the oversimplification of the causality process of criminal acts for which the radical endocrinological theories are responsible.

Vide, e. g., Wood and Waite, Crime and Its Treatment, New York 1941, p. 255: "... we cannot believe that the more recent trends in biological interpretation are productive of much insight into the complex of forces that produce the criminal"; and *Sheldon and Eleanor T. Glueck,* 1000 Juvenile Delinquents, Cambridge, United States of America, 1939, p. 283: "... it must be stated that the enthusiasts who have attempted to apply endocrinology to criminalistics have thus far too greatly indulged in unwarranted claims and questionable inferences. They cannot as yet be taken too seriously as contributors to a science and an art of criminology". — *Vide* also *Donald R. Taft,* Criminology, New York 1945, pp. 75—76, who describes a comparison between criminals with endocrine troubles and a control-group of normal offenders. The conclusion is as follows: "There is nothing distinctive in the behaviour of anyone of the groups of endocrines which could be used as an aid in diagnosis".

In spite of the insufficiency and the lack of exact treatment of the sources of information not only have these questionable inferences been drawn regarding the causes of criminality in general and those of special groups of offence, but present experience has been thought to justify the aiming of a decisive blow at the current penal system of imputability and responsibility. This conception makes itself strongly felt, *inter alia,* in *Mjöen* and *Brantenberg, vide, e. g.* p. 111: "it is rather grotesque that it may be the ductless glands that must be intimidated to function normally — that the hormones shall take account of modifications of an *a priori* imperfect criminal law".

It goes without saying that this argument is untenable when applied to criminality in general or large fields of it. It presupposes that the hormonal factor is the sole factor in the genesis of crime, thus ruling out the generally recognised fact that a multiplicity of factors, stimulating as well as retarding, combine with and counter-act one another in the psychological motivation process resulting in criminal or non-criminal behaviour. It rules out as well the not immaterial fact that probably the vast majority of patients with endocrine troubles never come into conflict with the criminal law[1]).

Quite a different question is whether in a particular case an endocrine trouble may have such psychic effects in relation to an offence that an abnormal condition of a disculpatory nature should be admitted, from the point of view of criminal law, to have been present. This question impinges on the penal theory of responsibility, and will not be dealt with here in greater detail. It may be appropriate, however, to call attention to the fact that it has been answered in the affirmative in more recent Danish criminal practice.

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1) *Vide,* in the same direction, the statement of the Committee of Experts of the United Nations: Crime is probably rarely due primarily to endocrine disfunction. (World Health Organization, Technical Report Series No. 9. Geneva, 1950, p. 25, cf. p. 39.)

In Particular: Castration[1]).

The removal of the sexual glands by castration is recognised as a lawful means to the neutralisation of sexual offenders. The favourable effects in respect of the elimination of recidivism in sexual offenders which this operation has been proved to bring about, according to the experience of, *inter alia,* more recent Danish practice, are no doubt largely due to the removal of the hormonal factor depending on the functioning of the sexual gland. Even in these cases, however, there seems to be no question of a purely hormonal decriminalisation, resocialisation being generally supposed to be due also to psycho-therapeutic treatment aiming at the establishment of a normal adjustment and of inhibitions of crimino-sexual promptings in the individual concerned.

This special operation can hardly support more general assertions concerning a close causal connection between endocrine troubles and criminality. Castration removes radically a determining physical condition not only of abnormal, but also of normal sexual life. It does not regulate a glandular anomaly, and is not even dependent on such a anomaly; for the operation may also take place in cases where the glandular function is normal and where the criminality must be supposed to be principally due to deficient psychic inhibitions of criminal sexual impulses. In actual fact, castration is an invalidating process of a special nature. Its effects seem to be confined to the sphere of sexual crimes. Claims made in particular in German literature that castration has a wider re-socialising effect, more especially as regards crimes against property, cannot be said to be supported by Danish empirical information except that it has a generally neutralising effect.

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[1]) Vide *Knud Sand,* Das Dänische Sterilisationsgesetz vom 1. juni 1929 und seine Resultate, Monatsschrift für Kriminalpsychologie, 1935, p. 49 et *seq.; Knud Sand,* La sterilation et la castration legales au Danemark, Annales de Médecine légale 1937; *Knud Sand,* Den legale Kastration, Nordisk Tidsskrift for Strafferet 1939, p. 283 *et seq.; Louis le Maire,* Legal Kastration i strafferetlig Belysning, Copenhagen 1946.

For a closer study of the subject *vide Louis le Maire, op. cit.,* pp. 169—176 with references to German literature. Of the 40 cases of castration of men guilty of sexual crimes combined with offences against property investigated by this author, 15 per cent., showed recidivism in the field of offences against property. In two cases the offences against property were committed only after castration.

THE IMPORTANCE OF PSYCHIC ABNORMALITIES TO CRIMINALITY.

21.

DISEASES AND ABNORMAL CONDITIONS.

The term "psychic abnormalities" is employed here as a collective designation including *psychoses* (mental diseases) as well as the *abnormal conditions,* in particular feeblemindedness and psychopathy, not coming under the psychiatric concept of *disease.*

The *concept of illness* in medical or, in particular, in psychiatric science cannot be narrowly defined. In recent years it has developed towards a greater emphasis of the etiological factors in preference to the symptomatological and functional ones. The concept of illness always presupposes a deviation from the normal, but not all deviations may be characterised as illness[1]). Nor, as is popularly supposed, may the fact that the patient is suffering physically or mentally be established as a general criterion. It must be recognised that the concept of disease is to some extent conventional and dependent on a social evaluation. It has been required that it be associated with definite organic processes and in consequence a mental disease has been held to be present only where the condition is due to morbid changes of the brain (*vide, e. g., Kurt Schneider* in M.f.K. 1929, pp. 592 *et seq.*). This requirement, however, is not universal in general psychiatry, where processes, not attended by demonstrable changes of the

1) *Cf.* Professor *Seguin's* definition: Illness is the reaction of the organism, considered as a whole, to external and internal influences which seriously disturb its balance.

brain, are largely included under the concept of insanity. Negatively, the concept of disease is demarcated by being opposed to so-called "abnormal conditions". In psychiatry this term has reference to permanent, stationary deviations from the normal mind (cf., *e. g. Wyrsch,* Gerichtliche Psychiatrie, Bern 1946, pp. 13, 44, 197). These generally innate or constitutional conditions differ from disease processes in neither improving nor getting worse (which does not preclude a social neutralisation). To this group belong the oligophrenias and the psychopathic personalities, as opposed to the psychic forms of disease: the psychoses and the psychogenic reactions and developments.

Nor is the *concept of abnormality* quite definite, however. It may designate something purely quantitative, simply a deviation from the average, but it may also include an element of evaluation so as to cover only what deviates from the average in a biologically inferior or negative direction. This is the most common sense use of the term. The assertion is sometimes made that abnormality presupposes a pathological process, *cf.* thus *Goring, op. cit.,* pp. 27 f. (much of this author's sharp controversy with Lombroso may no doubt be traced to this definition of the concept of abnormality). However, if this terminology were accepted, the practically adequate distinction between abnormality and disease would cease to exist.

As regards the nature and manifestation of individual psychic abnormalities and their importance to the penal evaluation and treatment of offences committed, reference must chiefly be made to psychiatry, more particularly to forensic psychiatry and legal expositions. Here only a brief summary can be given, insufficient for a deeper understanding, of the principal forms of abnormality with the main emphasis on guidance in regard to the general medical terms which the student of criminology and criminal law comes across again and again. With this summary is combined an account of the extent to which such abnormalities may be supposed to favour the occurrence of (objective) criminal acts.

22.
PSYCHOSES
Schizophrenia[1]).

Schizophrenia is a mental-disease group with a relatively high frequency in the average population[2]). The original term *dementia praecox (Kraepelin)* has now been replaced by the term schizophrenia coined by *Bleuler* (from the Greek: division of the mind). What keeps the group together as a unit are similarities in the course of the disease rather than in the condition, which presents very great differences. Characteristic of the course is the development towards a change of personality, one of the most important and earliest symptoms of this development being failure to keep contact with the environment, so-called autism[3]).

Concerning different groups of psychoses or processes within the schizophrenic field, *vide, e. g., Johannes Lange* in *Hoche*'s Handbuch der gerichtlichen Psychiatrie, 3. Auflage, Berlin 1934, pp. 493 *et seq.; H. Helweg,* Den retslige psykiatri, Copenhagen 1949, pp. 201 *et seq.; Gabriel Langfeldt,* Retspsykiatri, Oslo 1947, pp. 52 *et seq.;* and *Rylander-Bendz,* Rättspsykiatri, Stockholm 1947, pp. 28 *et seq.,* who gives an account of hebephrenic, catatonic and paranoid forms of schizophrenia.

As regards the *criminalistic* importance of schizophrenia, *Helweg* stresses the aggressive act as the typical schizophrenic crime, especially in the initial stage. "It occurs in all shades. In

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[1]) In earlier psychiatry and still in more recent court practice some of the cases, now called schizophrenia, are classified as *paranoia* (madness). This term is employed in modern psychiatry as a substantive diagnosis only in respect of certain special cases, where delusions develop on the basis of a psychopathic constitution, vide also below p. 158 on paranoid isolated reactions. The paranoia may have different forms: paranoia of persecution, of jealousy, of querulousness, etc., and a distinction may be made between paranoia in active and passive (sensitive) individuals.

[2]) Vide above p. 84.

[3]) The term has been coined by *Bleuler* to express the most characteristic feature of temperament in the schizophrenics: ego-isolation, self-life, introversion.

the case of sudden outbursts of rage and violence, as they occur in particular in certain catatonic forms, the rage may have no definite aim ... Very often, however the schizophrenic has constructed an inner idea-world giving his anger a definite direction, not infrequently against quite innocent and unsuspecting persons". The result may be murder or attempted murder, as a rule characterised by a complete absurdity.

Vide further *Schipkowensky,* Schizophrenie und Mord, Berlin 1938. *Karl Wilmanns,* Über Morde im Prodromalstadium der Schizophrenie, Zeitsch. f. d. ges. Neurologie und Psychiatrie, Bd. 170, 1940. — *Hans Bürger-Prinz,* Schizophrenie und Mord, M.f.K. 1941, pp. 149 *et seq.* — *Louis H. Cohen and Thomas E. Coffin,* The Patterns of Murder in Insanity, Journ. of Crim. Law and Criminology, 1946, p. 262 *et seq.* — *Vide* from Danish literature: *Axel H. Arnfred,* Et Tilfælde af Drab i schizofrent Prodromalstadium, NTfS 1946, pp. 1 *et seq.*

Schizophrenic crimes of murder and dangerous aggressions, however, play a very small numerical part[1]). In a case of serious, acute psychosis, the condition of the patient will generally be so suspect that he will be hospitalised before he gets time to commit a crime. And as to the many beings at large with their paranoid ideas who do not attract attention, it is very rare for them to convert such ideas into gravely criminal acts.

It is a moot point, on the other hand, whether the mild, stationary or partly cured schizophrenic diseases do not play a rather important part in regard to certain types of crime and anti-social attitudes. *J. Lange* states that the social difficulties often encountered by the mild schizophrenics frequently land them in petty thefts and petty frauds[2]). Many vagabonds are supposed to be schizophrenically defective or morbid persons who

[1]) *Vide,* however, the investigation referred to by *M. Kaila* in NKÅ 1940—41, pp 17 *et seq.,* according to which the *relative* frequency of such crimes proved to be manifold in a group of schizophrenic patients.

[2]) *Hoche's* Handbuch der gerichtlichen Psychiatrie, 3, Aufl., Berlin 1934, p. 506.

for the very reason of schizophrenic changes of their personalities have deteriorated socially and thus have ended on the highway.

Manic-Depressive Psychosis.

Manic-depressive psychosis (or circular insanity) is the name of a mental-disease group which in recent Danish literature is assumed to be more common than any other group, *vide* above p. 84. The disease includes a number of forms which were formerly treated as independent units (mania, melancholia and intermittent insanity), but which were included under one concept of disease by *Kraepelin* as early as 1896.

The basic feature of this disease group is a morbid change of mood, downwards towards a depressive or melancholic pole, upwards towards a manic pole. At shorter or longer intervals the disease may alternate between depressive and manic phases and *vice versa* or it may remain on one or the other of the two levels. There are often intervals of many years of normal mind between the morbid phases of the circular clinical forms.

The manic phase is characterised by increased self-confidence (euphoria), soaring ideas and activity. The melancholic or depressive phase shows the converse picture. The patient suffers from an indefinite melancholia, reduced self-confidence and is repressed in thoughts and movements. This condition is often coupled with feelings of fear and with delusions, including in particular morbid feelings of guilt and persecution mania.

From a *criminal* point of view, none of these types of disease plays any important part[1]). Manic or similar conditions (hypomanic conditions), however, may sometimes result in more or less

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1) *Vide,* however, the peculiar Danish decree, dated December 17, 1767, relating to "melancholic murderers", which was issued in consequence of a number of murders committed with a view to suicide, the murderer wishing to die but preferring execution to suicide for religious reasons. Under this decree, penal servitude for life and particularly severe forms, combined with corporal punishment, should be applied, in lieu of capital punishment.

serious criminal acts, often in connection with alcohol. The high spirits with the absence of self-critical control, involve an increased risk of committing libels, offences against public order, aggressions, etc. In the manic or hypomanic mood an otherwise honest person may also make reckless money transactions that objectively have the character of fraud or embezzlement. Likewise, sexual crimes, sometimes of a perverted nature (obscene exposure, etc.), may occur. All of these forms of conduct, however, have rather the character of accidental, unintentional slips.

In the melancholic mood the greatest risk is that of suicide. The psychological mechanism underlying this non-punishable act may, however, in rare cases result in the homicide of family members and, if so, generally in connection with suicide or attempted suicide (family murder, "extended suicide", "Mitnahmemord", etc.).

Epilepsy.

The term *epilepsy* embraces a number of etiologically widely different, but symptomatologically homogeneous syndromes. In the centre is the epileptic seizure, in part the major fit *(grand mal)*, in part the minor fit *(petit mal)*, manifesting itself in a moment's loss of consciousness without any convulsion. Of the psychic abnormalities attending epilepsy should be mentioned in particular the epileptic psychoses, states of confusion and haziness of various kinds. Such conditions (and certain depressions) are sometimes called epileptic equivalents.

Vide, e. g., Wyrsch, Gerichtliche Psychiatrie, Bern 1946, p. 141. However, one also meets with the designation psychic equivalents (psychic epilepsy) applied to various uncontrolled fits, such as dipsomaniac and kleptomaniac fits, the epileptic character of which is disputed.

In the course of the disease a so-called *epileptic character* may develop, characterised by a certain dullness of tenacity, emotional dependency, fretfulness and pedantry.[1]).

The *criminalistic* importance of epilepsy was, as mentioned above, violently exaggerated by Lombroso. Given the somewhat sharper demarcation of this disease in more recent psychiatry, despite the uncertainty still prevailing, there is no basis for asserting that epileptics present any substantially greater criminal risk than does the population in general. It may be admitted, however, that certain forms of epilepsy, probably in particular those due to exogenous causes, involve an especial risk of acts of violence being committed, sometimes of the most dangerous kind, more particularly in states of clouded consciousness coupled with states of fear and during periods of depression. During such periods there is as well a strong tendency to commit arson and sexual crimes. It should also be mentioned that epileptics may have a special intolerance of alcohol with the risk of pathological intoxication. The epileptic changes of character may involve a risk of criminal acts, in particular aggressive violence.

Views have thus varied much as to the criminality of epileptics. To illustrate the lack of standardisation in the diagnostication of epilepsy among criminals, *Sutherland* states in his Principles of Criminology, New York 1947, p. 108, that whereas the reports indicated that 19 per cent. of those admitted to Elmira Reformatory in 1919 were epileptics, the percentage had dropped to 0.8 per cent. in 1929.

In addition to the large disease groups referred to above, there are other mental diseases or related psychic disturbances of im-

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[1]) *Vide* on the subject *Erik Strömgren,* Om den ixothyme Psyke, Hospitalstidende 1936, pp. 637 *et seq.; H. P. Stubbe Teglbjærg* in Nord. psykiatrisk medlemsblad I, 1947, pp. 124, 126; *Rylander-Bendz,* pp. 41 *et seq.,* assumes permanent psychic changes to be present in 30 to 40 per cent. of all epileptics (outside of institution).

portance to criminality. Only a brief account of some of the most important of the latter may be given here, reference otherwise being made to psychiatry.

Alcoholic Mental Diseases.

Any inebriation is, strictly speaking, a mentally abnormal condition, brought about by the intoxication caused by alcohol. For practical reasons, however, ordinary cases of inebriation are not included within the field of abnormality, either in criminal law, or in psychiatry; and in criminology, too, it would be natural to keep the general crimogenic effects of alcohol outside the part of the exposition concerned with psychic abnormalities. Therefore, only the reactions and conditions which are considered pathological will be mentioned here.

To take the *acute* cases first, the alcoholic psychoses proper play no great part from the criminalistic point of view, as they generally result in immediate hospitalisation. The abnormal alcohol reaction known as *pathological intoxication* (or "complicated intoxication") may take forms involving a highly increased risk of offences, in part agressive violence in a blind rage, in part any sort of crime committed in an alcoholic state of clouded consciousness. Pathological intoxication has in recent years been a live issue in connection with motor-driving in an intoxicated condition; however, a pathological reaction proper is held to have existed only in rare cases[1]).

Of greater criminalistic importance are the *chronic alcoholic psychoses,* more particularly the *jealous madness* resulting from excessive alcohol which sometimes leads to cruelty to a wife and even to murder. Also relevant is the so-called *Korsakow alcoholic*

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1) Vide further *Rylander-Bendz,* op. cit., pp. 65 *et seq.; Helweg,* op. cit., pp. 183 *et seq.; George E. Schrøder,* Psykiatrisk Undersøgelse af Mandsfanger i Danmarks Straffeanstalter, I, 1917, pp. 221 *et seq.* II, 1927, pp. 107 *et seq.*

psychosis, where the insidious deterioration of the power of concentration, sense of order and responsibility promotes irregularities of accounts and embezzlement.

This psychosis was first described by Korsakow in 1887. It is one of the most serious forms of alcoholic insanity. Physically, it is attended by a widespread inflammation of the nerves (polyneuritis).

As regards the correlation between criminality and alcoholic intemperance in cases not included in the alcoholic mental dieseases, reference may be made to the exposition below on pages 288 *et seq.*

Other Psychoses arising from Intoxication.

The large majority of such cases, in particular a number of occupational diseases involving poisoning of the nervous system, are of no particular criminalistic interest. However, certain intoxications resulting from abuse of medical drugs and narcotics, in particular abuse of morphine and cocaine, are of importance to criminology. This does not mean, however, that crimes are frequently committed in the resulting abnormal states, but the craving for such narcotics may, in view of the existing compulsory requirement of a prescription, lead to forgeries of prescriptions and other unlawful acts in order to get hold of the stimulant; and it must be assumed in the circumstances that such acts originate in an abnormal condition developed by the habitual use of narcotic and generally combined with a psycho-pathological disposition. Further, states of intoxication by cocaine involve no small risk of violent acts, offences due to negligence, etc.

Old-Age Psychoses and Other Organic Psychoses.

Of criminalistic interest is particularly that *senile demens* (senile imbecility) presents a certain disposition for mild obscene acts, in particular against small girls, often without a clear consciousness of the unlawfulness of the act.

The conditions of melancholia or delusions of persecution attending *presenile psychoses* produce but rarely serious criminality.

The syphilitic insanity of *dementia paralytica* or progressive paralysis is of crimogenic importance more especially in the initial stage. The changes in the brain may, prior to the perceptible manifestation of the disease, release inhibitions and functions of control, which often results in accidental offences against property, more particularly misappropriation of property held in trust, and in the circumstances also to violations of public decency and similar mild sexual offences. The moral deterioration, being characteristic of the initial stage, may sometimes make itself felt also after recovery, if the latter has left trace of the brain injury (defect-cured paralytics).

Chronic encephalitis (inflammation of the brain) and *meningitis* (inflammation of the meninges) which may attend certain infectious diseases (sleeping sickness, diphtheria, etc.), may involve changes of character of a marked crimogenic nature. Persons suffering from one of these diseases are sometimes called post-encephalitic or psychopathic personalities. In mild cases there is a proclivity for petty offences and anti-social attitudes; however, there may also be serious changes of character that may lead to a very grave criminality (homicide, rape, etc.)[1]). According to *Sutherland*[2]) present experience of post-encephalitic personalities shows a more specific relation to criminality than is the case in respect of any other form of insanity; however, there exists no safe explanation of the behaviour disorders observed after encephalitis.

Traumatic Brain Lesions.

As regards the importance of mechanic or *traumatic brain lesions* (lesions of the brain caused by a fall, blow or other form

[1]) *Cf. G. Stertz,* Encephalitische Wesensveränderung und Mord. MfK 1931, pp. 320 *et seq.*

[2]) Principles of Criminology, New York 1947, p. 108.

of external violence) for the appearance of changes of character in a criminal direction, opinions are divided. It is generally recognised that serious brain lesions may result in permanent changes of character, but much doubt prevails as to the chronic effects of concussion of the brain (commotio cerebri) and other minor traumata of the head. Recent investigations tend to show that traumatic injuries of the brain, like infectious injuries, (together designated as lesional injuries) play a relatively great part in the development of psychopathic peculiarities of character (pseudo-psychopathies, as opposed to psychopathies on a congenital basis).

On recent Danish investigations, *vide Paul J. Reiter,* Om Psykopather, 1946, p. 79 *et seq.* In these investigations concussions of the brain and cranial injuries occurred very frequently among psychopaths as compared with other groups of mental deviates; furthermore, morbid organic changes indicative of the existence of lesional brain diseases have been found very frequently in psychopathic personalities.

In various investigations of criminals in Denmark, traumata of the head have been demonstrated in 10 per cent. of the cases (*le Maire,* Kastration, p. 104, note 42, *Stürup* and *Christiansen,* 335 Statsfængselsfanger, p. 74), but only in rare cases has a direct crimogenic significance of such traumata been recognised or demonstrated. For examples of such cases *vide* Retslægeraadets Aarsberetning for 1928, p. 3, and 1935, p. 148.

As regards foreign literature *Hollander,* The Psychology of Misconduct, Vice, and Crime, London, Third Impression, 1928, attaches an extremely great crimogenic importance to traumata of the head. He has even tried to demonstrate a definite correlation between different types of criminal tendencies and different local injuries of the brain, *op. cit.,* pp. 202—03.

Reactive Psychoses.

By *reactive* or *psychogenic psychoses* are understood mental diseases arising from psychic traumata (serious psychic strain), often, though not unconditionally, associated with a predisposi-

tion for mental disease. Such traumata are, in particular, family conflicts, sexual conflicts, deaths, shocks caused by calamities, mental overstrain in case of social breakdown, imprisonment, etc.

Vide further *Poul Færgeman,* De psykogene Psykoser belyst gennem katamnestiske Undersøgelser. Copenhagen 1945.

Of special criminalistic interest are the *psychogenic depressions* that in extreme cases may lead to family murder according to the type of "extended suicide", and in mild cases not infrequently result in less serious criminal acts (thefts, arson, etc.) having the character of abnormal relief reactions, *vide* immediately below. Relevant, too, are the *prison psychoses* common, in particular, in cases of detention; such psychoses, however, but rarely result in criminal acts.

23.
PATHOLOGICAL ISOLATED REACTIONS

While the reactive psychoses are to some extent accompanied by a disease which justifies their classification as states of insanity, the abnormal or *pathological isolated reactions* are phenomena of quite short duration, abnormal reactions in a special situation. *Helweg* mentions as such: impulsive reactions, "short-circuit" reactions, reactions of affect, paranoid and hysterical reactions[1]).

The *impulsive act* is one which immediately realises an impulse before the general inhibitions become operative, *cf.* in this connection the following definition by *Wyrsch, op. cit., p. 17:* an impulsive act is an instinctive act of abnormal nature which is carried out without consideration and without clearly conscious motives, but which corresponds with a more or less conscious aim of the perpetrator and has an inner relation to the aim. — Pure crimes of impulsion are supposed to be rare.

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[1]) Den retslige Psykiatri, 1949, pp. 227 *et seq.*

The "short-circuit" reaction, according to *Helweg* (p. 232), differs from the impulsive reaction in that "the current of energy created by the impulse shifts to quite a different and, in fact, irrelevant field ..." It springs from the immediate situation, a moment's confusion in circumstances where the individual finds himself cornered, "locked up psychically", and he breaks out in a desperate impulse, *cf.* the case mentioned by Helweg, where a young man who practiced nudism came across a girl and, on a sudden impulse, perhaps from fear that she might report him for violation of public decency, caught her round the neck and strangled her.

Of the same type as the "short-circuit" reaction in the immediate situation is the outburst "forming the end of a long-standing tension or excitement" (Helweg, p. 232). This *relief act* may have a specific relation to the existing conflict, for example where a sexual tension is released in a sexual crime, or it may be "unspecific" in relation to the excitement evoking it, as is often the case in apparently unmotivated arsons. The latter type of relief act corresponds to what *Wyrsch,* p. 17, defines as *Drang-handlung:* The release of an objectless depression in an accidental act against an accidental object.

The *affective act* is committed in a passion, but the release in this case is not foreign to the personality as is the impulsive act, nor is it marked by the absence of adequacy characteristic of the "short-circuit" reaction and similar actions.

In contradistinction to the affective act, the *automatic act* takes place without the positive co-operation of consciousness and the individual feels as if he were foreign to and irresponsible for it.

Finally, the *compulsion act* is committed *against* what the person wants and admits as desirable; the individual feels that he is the victim of a compulsion impulse, but considers nevertheless the act he commits as *his,* not as a foreign act.

24.
NEUROSES

With the abnormal acts resulting from mental conflicts discussed above we have touched upon the field of *neuroses.* The term neurosis was originally employed of any nervous disease, including the organic ones, but has later been confined to the so-called psycho-neuroses, *i. e.* psychic disturbances (and their physical manifestations), if indicative of inner tensions or unsolved conflicts or repressed wishes or instinctive drives.

The term neurosis is not quite definite. *Stürup,* NTfS 1945, p. 88, defines neurotics as "those suffering from psychic disturbances of the type attending conflicts, serious psychic strains, pubertal difficulties and the like". *Vide* also the same author in NTfS 1948, p. 16, where neuroses are discribed as manifestations of emotional conflicts whose nature or relation to the symptoms is not consciously understood by the patients. Positively they are characterised by a definite clinical syndrome, negatively by the absence of relevant organic pathology, dementia or primary change of mood or substantial and permanent disturbance of the external actual experience.

Jan Sachs, Festskrift for Helweg, pp. 704 f., will use the term neurosis only of the more superficial neurotic syndromes not deeply affecting the personality, such as compulsion syndromes; next also of sporadic nervous troubles with a clearly defined course.

In view of the vagueness of terminology, statistical records relating to neurosis and criminality should be judged with great caution.

Different from neurosis is *neurasthenia,* a term originally used to describe a constitutional-organic debility of the nervous system. It is now thought that the condition is one of fatigue, worry and inadequacy which hardly originates in the constitution and the term pseudo-neurasthenia is sometimes used (*Wyrsch,* Gerichtliche Psychiatrie, Bern 1946, pp. 198 f.).

Nervosism, as distinguished from neurosis, relates to more universal forms of nervousness, as opposed to psychic troubles

centred on single fields; *vide* for classification *Færgeman,* Psykogene Psykoser, Copenhagen 1945, p. 35.

Recent criminology attaches increasing importance to the neuroses in the causation of social deviation and criminal behaviour. This view is particularly stressed by the psycho-analytical school according to which mental conflicts involving an unconscious desire for punishment are a principal factor in the causation of crime, *vide* on the subject below pp. 214. However, outside this school, too, psychologists and physicians have called attention to conflicts and repressions as undoubtedly operative mechanisms underlying criminality, more particularly juvenile delinquency.

In this connection mention should be made of the American physician *William Healy*'s investigations of young delinquents. In a great many cases he found a close interrelation between the school difficulties, vagrancy, thefts, etc. of the child or the young person and a mental conflict arising from such factors as bad relations with a stepfather or stepmother, breach of trust (untruthfulness and the like) on the part of parents or other educators, sexual experience, harsh treatment, false accusations, teasings on account of a speech defect, enuresis, etc.

Vide, further *William Healy,* The Individual Delinquent, London 1915, §§ 235 *et seq.* Among the cases quoted by way of illustration are the following:

Case 61: The case related to a 10-year-old boy, coming from unusually fine parents, in physical as well as in mental respect, with very good home conditions. The boy was a strong, healthy lad with no physical or mental defect. Nothing was wrong with his brothers and sisters. For a few years there had been trouble with the boy, but this trouble had increased during the last six months to include truancy, stealing and vagrancy. The investigation revealed that a few years earlier some older boys and girls had made him engage in bad sex affairs. He played truant and stole to join these boys and girls. His mind was still dwelling on these affairs and he brooded on them like a secret. The treatment recommended by Dr. Healy was that the parents should

be taken completely into the boy's confidence, and that he be removed from the neighbourhood. The result was entirely satisfactory.

Case 63: The aberrations of a 14-year-old girl were found to be connected with a shock she had experienced when, at the age of 7, she had suddenly learnt that the stepmother was not her real mother.

Case 65: A specific form of misconduct (stealing) is assumed to be a substitute for another form (bad sexual habits), "the repressed type being the one really dwelled on and obsessional, but considered as altogether too bad to be engaged in".

In a later work, *Healy and Bronner,* Delinquents and Criminals, New York 1926, the experience in regard to mental conflicts is summarised as follows: We ascertained mental conflicts in 6.5 per cent. of 4,000 cases and it is likely that many other cases remained undetected. These conflicts must be considered as directly causative in the development of criminal tendencies, *op. cit.,* p. 180.

The criminalistic importance of the neuroses is also recognised in recent Danish investigations of prisoners, etc., *vide Karl O. Christiansen* in "Politiet", 8th Volume, 1946, p. 297, according to which neuroses are found in particular in "acutely criminal" persons.

In connection with the neuroses should be mentioned also the so-called "manias": *kleptomania* (impulse to steal), *pyromania* (impulse to incendiarism), *poriomania* (impulse to vagrancy), *dipsomania* (a morbid craving for drink), *ktinomania* (impulse to kill), etc. The term mania is derived from a psychiatric monomania theory, now discarded, which considered such phenomena as manifestations of isolated, partial abnormalities of the instinctive drives of otherwise normal individuals. Now, however, they are considered as different forms of psycho-neurotic disturbances of a more general pathological nature.

Kleptomania, in its actual morbid condition, is characterised by a compulsion impulse to steal with no motive of gain. Women, in particular, commit thefts of this genuinely kleptomaniac type, as a rule in large stores ("department-store-thefts") with no need

of or particular interest in the objects stolen. In practice, it may be very difficult to draw the line between such, probably rather rare, cases and ordinary thefts.

Vide on the subject *H. Helweg,* Den retslige Psykiatri, 1949, pp. 155 *et seq., P. Dickmeiss,* On Female Criminality during the Climacteric, Festskrift for Helweg, 1946, pp. 217 *et seq.* Dickmeiss' subject-matter does not confirm the contention sometimes advanced that kleptomaniac women chiefly belong to the upper classes. The underlying cause of the kleptomaniac acts of the women he investigated should, in his opinion, be traced to climacteric emotional instability rather than to the symbolic mechanism assumed by the psycho-analysts (the theft as symbol of the forbidden sexual act). — *Vide* also *William Healy,* The Individual Delinquent, London 1915, § 366, pp. 770 *et seq.,* who distinguishes between three kinds of stealing: 1) pathological stealing where "the stealing is indulged in for its own sake", there is here a connection with mental conflicts, menstruation, pregnancy, etc., the stealing is a sort of "relief phenomenon for repressed elements in mental life", 2) stealing for the sake of adventure or for the excitement plus possession, 3) cases of fetishism (where the object is stolen for sexual purposes). According to Healy, the term kleptomania should be applied to the first group only. — *Vide* also *H. Prytz* in NTfS 1934, pp. 1 *et seq.* (on the psycho-analytical treatment of a woman kleptomaniac), *Emil Raimann,* Über Warenhausdiebinnen, MfK 1921—22, pp. 300 *et seq., Max Marcuse,* Ein Fall von "Kleptomanie", MfK 1928, pp. 401 *et seq.*

The psychiatry of today denies the particular impulse to incendiarism called *pyromania,* but is much concerned with the whole complex of psychic abnormalities underlying the crime of arson, including in particular the *relief reactions* and the like which were formerly included in the theory of pyromania.

Vide Bo Gerle, Mordbrännare, Lund 1943, pp. 84 *et seq.* concerning the motive of incendiaries, in particular p. 113: "In the establishment of the concept of pyromania the discussion was focussed on the very crime, the incendiarism, and the fallacious conclusion was drawn that there was an impulse to cause fire. In point of fact, such states of depression imply but subconscious

impulse or drive to commit any act whatever to bring about a change of the tormenting and unsatisfactory situation. Other acts, too,. may serve as a means in such relief reactions, such as thefts, crimes of violence and sexual assaults and also, more innocent acts like vagabondage, excessive drinking and the like ... If the incendiarism is viewed as a relief reaction, it is susceptible of explanation that the unknown subconscious psychic mechanism leading to the crime repeatedly chooses the same way of discharge ..." — *Vide* also Chr. Geill, Brandstiftelsesmotiver, NTfS 1918, pp. 101 *et seq., Else Nordbeck,* Studier over oligofrene Forbrydere, NTfS 1946, pp. 245 *et seq.* (a survey of motives in a group feebleminded or mentally retarded incendiaries, which tends to show that sexuality in connection with arson has been of no great importance), *H. Helweg,* Den retslige Psykiatri, 1949, pp. 157 *et seq.* — Among other psychoanalysts, the problem of pyromania has been dealt with by *Ernst Simmel,* Incendiarism (in Searchlight on Delinquency, New York 1949, pp. 90 *et seq.*). An example of incendiarism to a farm as a substitution act for a planned incendiarism, for the purpose of revenge, to some other farm, *(cf. Kurt Lewin*'s theory of acts of substitution value) is to be found in a Danish study of women psychopaths *(Karen Værge-Petersen,* unprinted work, 1948).

25.
THE OLIGOPHRENIAS

Under this term are included *feeblemindedness* and the *minor intelligence defects* of so-called mentally retarded persons. For the sake of connection, variations within the normal mental field will be discussed, too.

In recent years it has been widely held, particularly thanks to the influence of the Englishman *Goring* and the American *Goddard,* that intelligence defects — primarily feeblemindedness, but also less pronounced defects — were a main factor in the causation of crime. This view, however, has recently proved untenable in the face of more critical analyses of which an account will be given in the sequel, separately in respect of each form of mentality.

Charles Goring has set out his view of a close interrelation between defective intelligence and criminality in The English Convict, London 1919, pp. 162 *et seq.* He makes the radical contention that defective intelligence is the determining mental factor in the etiology of crime. However, the statistical information underlying the contention is very meagre. It amounts chiefly to a collation of the frequency of feeblemindedness in the adult and the prison populations in England. His figures, ½ per cent. and 10 to 20 per cent. respectively, can no longer be considered tenable.

H. H. Goddard, Human Efficiency and Levels of Intelligence, Princeton, 1920, and Juvenile Delinquency, New York 1921, has asserted, *inter alia* on the basis of investigations of groups of prisoners of whom more than 50 per cent. were feebleminded, and other investigations of offenders and anti-social persons, that "the greatest cause of delinquency and crime is lowgrade mentality, much of it within the limits of feeblemindedness"[1]).

Feeblemindedness.

As mentioned already, feeblemindedness is no disease, but an abnormal condition in the sense stated above[2]), or rather *a group of different abnormal conditions,* the common feature of which is a major intelligence defect. There is no sharp line of demarcation, only flowing, gradual transitions between what is designated as abnormal and as normal and the same is true of the different levels within the abnormal field. Feeblemindedness merges into psychopathy, which like the former denotes an abnormal personality deviation of generally innate or early acquired origin *(Helweg).* If it is said that feeblemindedness implies defective intelligence, while psychopathy manifests itself as defective character (with particular reference to will-power and feeling), this distinction should be taken only as a rough outline of the

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1) Quoted from *Sutherland,* Principles of Criminology, New York 1947, p. 104.

2) Above p. 148.

most pronounced features. In point of fact, there is no absolute separation of these psychic elements.

Psychiatry discriminates between three levels of feeblemindedness: *debility, imbecility* and *idiocy*. The definitions vary somewhat. An apparent exactness is reached if each of these levels be confined to definite parts of a scale of intelligence quotients (*vide* below). Danish psychiatry, as a rule, now operates with the following division[1]):

I. Q. 55 to 75: debility.
I. Q. 30 to 55: imbecility.
I. Q. under 30: idiocy.

It should be stressed, however, that the measuring of the intelligence quotients does not, in isolation, provide any safe standard of feeblemindedness or its degrees and the figures stated should, therefore, not be considered as precise indices, but only as guides. The same is true of the indication of a definite *"mental age"*. To avoid an often misleading subsumption of mental defectives under clear-cut, numerical levels of intelligence or under the mental age levels of normal children with an intelligence which, in actual fact, is incommensurable, some psychiatrists prefer to eliminate such divisions and to distinguish instead between degrees of feeblemindedness as determined by the ability of the person concerned to meet certain general requirements of life (make-up criterion, as distinguished from I. Q. criterion).

Cf., e. g. Wyrsch, Gerichtliche Psychiatrie, Bern 1946, p. 45, who describes the three degrees of feeblemindedness in the follow-

[1]) The line of demarcation between idiocy and imbecility, however, is by some psychiatrists put at I. Q. 35, such as *Bredmose,* Forsorgen for de i lettere grad åndssvage, Sorø 1944. Swedish psychiatry operates with the following division: debility: I. Q. 65—70 to 85; imbecility: I. Q. 40 to 65—70; idiocy: 0—40, vide *Rylander-Bendz,* p. 88. — According to the Danish division the intelligence quotients correspond with the following mental ages: morons 12 years according to the Brejning table and 11.25 years according to the Binet-Simon table: imbeciles: 8 years, idiots: 5.8 years.

ing way: Debility: despite defective intelligence the person concerned is able to go through the elementary school, though with non-removes; imbecility: he cannot keep up at lessons in the elementary school; idiocy: he is, from the outset, unable to learn the most simple knowledge of the elementary school.

As regards the methods of measuring intelligence, reference may be made to the special literature on the subject, *cf.* Helweg, *op. cit., pp. 113 et seq.* Here, only the concepts of mental age and intelligence quotient will be explained.

Mental age is determined by the ability of the subject to solve a number of problems, arranged in groups in an intelligence scheme in which each group is standardised as a norm of what children of a definite age are known from experience to be able to do. The tests are arranged so as chiefly to make demands on general intelligence, not on school knowledge, though the latter factor is not capable of complete elimination. According to the Binet-Simon test, which is generally applied in this country, the intelligence scheme is divided into five groups, covering the age-levels 3 to 15 years and in each group there are five tests. By mental age is understood the age corresponding to the number of correctly answered tests of the intelligence scheme. *The intelligence quotient* is determined by dividing the mental age by the chronological age and multiplying the result by 100. The chronological age of persons over 15 years, is always put at 15[1]). A person over 20 years of age who has shown a mental age of 10 years has thus an I. Q. of $10/15 \times 100 = 66$.

Collations of the findings of different investigators should be made with great caution, in particular if the methods vary in the different countries, though I should not go so far in skepticism as *Sutherland,* who states on the differences in the results of investigations of feeblemindedness: these variations are much more likely to reflect the methods of the testers than the intelligence of the criminals (*op. cit.,* p. 104).

Criminalistic interest is chiefly centred on the low-grade feebleminded, the morons. The high-grade feebleminded will generally

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[1]) This is due to the former general view that the development of intelligence ceases about the age of 15. Now, however, one is inclined to suppose a higher age, *vide Harald Torpe,* Intelligensforskning og intelligensprøver, 1948, p. 192.

be subject to public care measures which make them innocuous to society. If they do get an opportunity to commit crimes, they will be crimes of instinctive drive or affect, more particularly sexual crimes.

The morons (and the border-line group of the imbeciles) are scarcely dangerous for the very reason of their defective intelligence[1]). This defect is often capable of social compensation through the person's emotional and volitional nature. However, where the intelligence defect is coupled with character defects preventing such a process of compensation, a special criminal risk will develop.

Low-grade feebleminded persons with character defects tend to commit primarily thefts, more particularly occasional thefts. To a lesser extent they also commit arson with (normal-psychological) insufficient motivation, sexual crimes of a less serious character, incest, etc. Others embark on anti-social petty criminality (begging, loafing, etc.), generally coupled with alcoholism.

No safe statistical data of criminality among the low-grade feebleminded are available. *de Greef,* who stresses the importance of the process of compensation referred to above, considers that not one of ten morons becomes criminal[2]), and as that one may very well be susceptible of reformation, each particular case should be examined separately. The criminal acts often denote no hereditary tendency, but are reactions to teasings and humiliations, or else emergency acts during a vagabondage in which his social inferiority has landed him.

Along with the ordinary forms of feeblemindedness are found certain special types of criminalistic importance, in particular the so-called *"Verbalist type of defectiveness". Wyrsch* describes such cases as follows: the persons concerned are able to acquire

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[1]) *Cf. Martin Ekblad,* A psychiatric and sociologic study of a series of Swedish naval conscripts, Copenhagen, 1948.

[2]) Introduction à la criminologie, Bruxelles 1946, p. 186, with reference to *R. Gault,* Criminology, New York 1932.

general school-learning and may join in the discussion of the topics of the day, but their line of thought is mixed and inconsistent, with no definite concepts[1]). The intellectual defects may easily remain hidden from the environment; this in connection with the character defects frequent in this group may favour the development of a particular type of fraud, often on a large scale.

So-called *psycho-infantilism* differs widely from feebleminded-ness. It is characterised by a deficient development, an immature, childish psyche, but with no defect of intelligence or character. The condition may account for obscenity and sometimes also for other punishable but immature acts.

Different from *psycho-infantilism* in this sense is a psychic abnormality, described particularly in French literature, which is characterised by an inclination for regression to a period of childhood ("retour à l'enfance"); in MfK 1907—08, pp. 313 *et seq.*, a case of this nature is mentioned where an 18-year-old boy stole money in order to buy children's wear (and was acquitted as irresponsible).

As regards the feebleminded (and the mentally retarded), it is a general assumption that much of their criminality is associated with *puberty,* which often extends beyond the normal pubertal period[2]).

In a recent Danish investigation, Else Nordbeck, Studier over oligofrene Forbrydere, NTfS 1946, pp. 232 *et seq.*, the correlation between the criminality of the feebleminded and puberty is considered more doubtful than is generally assumed. The investigation, which comprises 256 male oligophrenic offenders (feebleminded and mentally retarded) and a control-group taken from the general criminal statistics, reveals a considerable congruity

[1]) *op. cit.*, pp. 48 f.

[2]) *Cf. Bredmose, op. cit.:* the pubertal period of the morons, which often has a catastrophical effect, is generally extended up to and including the 21st—22nd year of age; at the age of 20 or 21, very often a maturation takes place, raising them from the group of morons to that of the mentally retarded.

between the age distribution curves of oligophrenic and of normal offenders. The factors underlying the offences of the young oligophrenics are, according to the author, such conditions as reduced working capacity and thus greater temptation to commit offences against property, difficulties of contact with adult young women, and very low social environment. Arson, however, is assumed to be largely correlated with the pubertal period, though this offence is very seldom directly traceable to sex.

Mentally Retarded Persons.

In recent criminology consideration has increasingly been given to the so-called *mentally retarded, i. e.* persons who rank between feebleminded and normal persons, as far as intelligence is concerned. In foreign psychiatry they are often included within the morons. In the scale of intelligence quotients the group of mentally retarded figures, according to Danish psychiatry, is between 75 and 90. It ranges over different degrees. There is no sharp line of demarcation between the slightly mentally retarded and persons of low intelligence within the normal sphere, nor between the definitely mentally retarded and the feebleminded.

The defective intelligence of the mentally retarded declares itself in childhood in backwardness at school. When they leave school, they cannot cope with a vocational training, and their manual dexterity and working speed are as a rule, also inferior to those of persons of normal intelligence. It is disputable whether the mentally retarded are marked by character defects as well. *Nørvig* assumes this to be the case less frequently than in respect of the feebleminded, whereas *Reiter*'s experience shows that mild defects of intelligence are nearly always associated with defects of character[1]). Even if there are no innate character defects, it should be taken into account, as *Gustav Jonsson*[2]) has stressed that difficulties of adaptation are often brought about, not by the

[1]) NKÅ 1942—43, p. 111, cf. p. 137.

[2]) In Fången, människan, straffet by *Else Kleen* et alii., Stockholm 1944, p. 131.

intelligence defect in istelf, but by the warped emotional and volitional attitude which is engendered in those who always make fools of themselves.

There can hardly be any doubt that the mentally retarded are subject to a special criminal risk, partly as a result of reduced power to judge of and consider the consequences of their acts and partly as a result of low social rank with reduced possibilities of earning an income equal to that of their companions. In evaluating the criminal figures of the mentally retarded, it should be taken into account that persons of low intelligence are more liable to detection than are the more clever.

As regards the nature of the criminality of mentally retarded persons, an investigation conducted by *Nørvig* into 272 such cases and submitted to the Danish Forensic Medicine Council during the years 1933 to 1942, shows that offences by such persons against property play a relatively minor part than they do in the case of normal offenders, while sexual crimes play a slightly major one[1]); it is a question, however, of whether this subject-matter is representative of the criminality of the mentally retarded in general. The cases submitted to the Forensic Medicine Council show further that the criminality of the mentally retarded as a rule declares itself earlier than does that of normal criminals and that the percentage of recidivism in young mentally retarded persons is extremely high (of mentally retarded persons convicted for the first time before their 21st year no less than 80 per cent. were re-convicted). This experience tallies with the general impression in practice in regard to the early criminality of mentally retarded persons and the poor effect of punishment. In this connection it should be taken into account that there exists no public care of the mentally retarded as there is of the feebleminded. The measures that may be taken under the Elementary School Act of 18 May 1937 sect. 2 concerning the placing

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[1]) NKA 1942—43, p. 114.

of mentally retarded children in special classes and within child welfare proper are obviously insufficient. Special classes exist only in Copenhagen and in a few provincial municipalities and the child welfare measures (supervision, placing in homes) cease at the 21st year. Nor does the existing penal system provide any special measures for meeting the special risk of recidivism among mentally retarded persons. The latter, in particular, are generally not fit for the youth prison.

It is a moot point whether the criminality of the mentally retarded is primarily endogenously or exogenously determined. Recent investigations have demonstrated that the mentally retarded generally belong to very low social classes, where the children of normal intelligence also show a higher crime rate, as compared to that of the average population.

Karl O. Christiansen and *Holger Rasmussen* in Hjälpskolan, Uppsala, 1946, pp. 48 *et seq.*, 79 *et seq.* and 93 *et seq.*, give an account of a follow-up investigation of 912 previous special-class pupils born between 1907 and 1914, compared with a control-group composed of 679 normal school pupils of the same age group and from the same (bad) districts. Of the special-class boys 28 per cent. had committed criminal acts, of the normal school boys 20 per cent. As regards the girls, the figures were 9 and approximately 1 per cent. respectively, this considerably greater difference showing, perhaps, that girls of defective intelligence are particularly liable to environmental injurious influences. The authors trace the higher criminality of the mentally retarded chiefly to environment. *Vide* on the mentally retarded also: The Discussions at the Annual Meeting of the Danish Criminalistic Association 1943, NKÅ 1942—43, pp. 104 *et seq.*

Variations within the Sphere of Normal Intelligence.

As regards the general concept of intelligence, reference is made to psychological literature, *cf. Harald Torpe,* Intelligensforskning og intelligensprøver, 1948, *Jørgen Jørgensen,* Psykologi paa biologisk Grundlag, 1942—46, pp. 587 *et seq., Torsten Husén* in Menneske og Miljø, 1946, pp. 175 *et seq.* Here mention shall be

made only of William Stern's definition of intelligence as the ability, by means of conscious thinking, to adapt oneself to new situations. A distinction is made (Spearmen) between a general factor of intelligence, the g-factor, being present in all intelligence performances, and special factors, the s-factors, varying with the different kinds of intelligence performances.

In criminology it has been and still is widely held that low-grade intelligence is a potent factor in the causation of crime, *vide* on the pathological intelligence defects what has been stated above concerning feebleminded and mentally retarded persons. Nothing much, however, can be said with certainty about this question. The factors operating as crimogenic in respect of the mentally retarded and the morons may also be supposed to have a crimogenic influence, though a milder one, in respect of the "stupid" who are above the borderline of mental retardation; but counter-factors, including the compensation processes referred to above, may here be more liable to become operative. The general experience according to which stupidity and honesty go together has at least not been disproved by modern criminology.

Several of the most recent investigations tend to show that intelligence defects have less significance as a criminal factor than was formerly assumed *cf.* thus *Torstên Sondén,* Tidsskrift for kriminalvård, 1948, pp. 9 *et seq.* (*vide,* further, below p. 201), who points out that intelligence *above* the average, even more than subnormal intelligence, may be a factor in the causation of crime where the environmental conditions do not afford adequate scope for the intellectual abilities. — *Vide,* also, *Jon Leikvam* in NTfK 1950, p. 65, and the work referred to above by *Martin Ekblad* as well as *Kai von Fieandt* in NTfK 1950, pp. 23 *et seq.,* whose investigation of intelligence levels and scholastic attainments in young (Finnish) offenders leads him to the conclusion that a significant correlation exists between behaviour difficulties in school and crime, but not between low intelligence and crime.

Attempts to determine exactly the relationship between the intelligence of criminal and non-criminal groups meet with great difficulties. Even if the test methods were unimpeachable and were capable of showing the finer differences within the normal intelligence of adult populations, it would still be impossible to avoid the source of error inherent in the more and the most intelligent criminals having a chance far in excess of that of the

less intelligent ones of avoiding detection and conviction and possibly of being included in the non-criminal controlgroup.

Of greater value are the attempts made to ascertain the importance of intelligence variations in relation to the different types of criminality. In Journal of Criminal Law and Criminology XXXVII, 1946, pp. 141 *et seq.* *Vernon Fox* gives an account of American investigations of this nature. His own results of an investigation of more than 5,000 prisoners are that intelligence is a selective factor in criminality, as he has found significantly higher intelligence (in proportion to the average intelligence of the prisoners) in the perpetrators of hightreason, forgery, robbery and motor-car theft and significantly lower intelligence in the perpetrators of homicide, rape, assault and perjury.

26.
PSYCHOPATHY[1])
Concept. Terminology.

The designation of *psychopathy* has, in particular, become general since the 1920's. It has replaced former current designations such as *"psychic inferiority"* and *"degeneracy"*. The meaning of the concept has varied somewhat in the course of time and is not yet quite definite.

The founder of the modern theory of psychopathy is considered to be *J. L. A. Koch,* the German psychiatrist, who already in 1888 and later in a monograph on the "psychopathischen Minderwer-

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[1]) Of the extensive foreign literature should be mentioned: *Karl Birnbaum,* Die psychopathischen Verbrecher, Berlin 1914. *Kurt Schneider,* Die psychopathischen Persönlichkeiten, Vienna 1940. *Bo Gerle,* Psykopatibegreppets bankrutt, Lund 1947.

Danish literature: *Report* by the Committee on the Establishment, under sections 17 and 70 of the Criminal Law, of Special Institutions for Psychopaths, Copenhagen 1931. — *H. Helweg,* Den retslige Psykiatri, Copenhagen 1949, pp. 129 *et seq.* — *Georg K. Stürup,* Sindsspecialet i almindelig Praksis. Maanedsskrift for praktisk Lægegerning og social Medicin, Copenhagen 1941, pp. 129 *et seq.* — *Paul J. Reiter,* Om Psykopather, Copenhagen 1946. — *J. Finn Larsen,* On the Diagnosis of Psychopathy in Criminals. Report on the Eighth Congress of Scandinavian Psychiatrists in Copenhagen, 1946.

tigkeiten", 1891—93, has given a detailed comprehensive exposition of the psychopathies.

The core of the concept of psychopathy is now generally understood to be that *psychopathy is a permanent, major abnormality of character,* no progressive disease like the psychoses and no intelligence defect like feeblemindedness with which, however, it has in common that, in its typical form, it is a stationary defective condition. The characterisation of psychopathy as a defect of *character* implies that it chiefly affects will power and emotion as well as instinct, but need not be coupled with major defects of intelligence, though this will often be the case.

Until recently, it was generally recognised that the abnormality of psychopathy was *inherited* or innate. As mentioned above[1]), however, it is questionable how far the hereditary view is capable of being sustained here and, conversely, it is positively known that pathological developments of character may take place as a result of acquired brain diseases, traumata of the head, harmful influences at the fetus stage or at birth, etc.[2]). Moreover since environmental factors must be taken into account as contributary to the formation of character[3]) and these cannot be separated distinctly from hereditary factors, if any, it is unpractical, in the long run, to include the latter as determining elements in the definition of psychopathy. In criminal psychopathology, at least, one should accept the premises of major character abnormalities without taking one's stand on the doubt-

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1) pp. 83—84.

2) Above pp. 156 f. — As regards such sequelae of brain lesions in adults, one should not, according to *Rylander-Bendz,* p. 100, talk of psychopathy, but of "encephalopathia".

3) *Cf. Rylander-Bendz,* p. 102: "Through extremely bad conditions in childhood ... tendencies may be formed, even in normal children, for abnormal reactions of the same nature as in psychopaths".

ful question of the etiology of such abnormalities. The use of the term psychopathy or "personality deviation", "character insufficiency" or some other neutral designation remains, then, a question of terminology. For the time being it is probably practical to retain the now general term of psychopathy.

As regards the previously presumed *permanency* or stationary character of psychopathy, it is now assumed to be possible to adjust psychopaths — particularly important in the case of criminal psychopaths — to the exigencies of society. The fact remains, however, that psychic abnormalities of a more temporary nature are not covered by the concept of psychopathy.

The above definition of psychopathy finally states that the character abnormality must be *substantial.* This implies first of all a purely quantitative requirement, *viz.* as to the degree of the abnormality. Thus, not every mild character defect or anomaly can be described as psychopathy. This is, indeed, implied by the very concept of abnormality, which does not include cases on the borderline of normality. There is a trend, however, towards focussing attention more sharply on transition forms between pronounced abnormality and normality. Such terms as "psychopathic suspect" personalities, "mild personality deviations", etc. thus arise to describe the extremely flowing transitions between the latter and psychopathy proper.

A *qualitative* delimitation, however, should also be taken into account. The non-negative character abnormalities of a personality which is, on the whole, functioning in a satisfactory way from the point of view of society, or is even distinguished by a plus variant, are certainly not covered by the concept of psychopathy operated within criminology. In a much quoted definition of psychopathic personalities *Kurt Schneider* calls them abnormal personalities *from whose abnormality they themselves or society suffer.* As far as the criminal psychopaths are concerned, the latter part of this definition is particularly relevant. Psychopathy thus includes a *social evaluation.* The assertion is sometimes made that,

in order to be of importance to the penal treatment of the person concerned, this evaluation should be made by the psychiatrist, regardless *of the criminality manifested by the individual.* This consideration embraces the truth that, if grave or persistent criminality *eo ipso* be taken as the manifestation of a psychopathic character abnormality, the psychiatric diagnosis gives the Prosecution and the courts no real information. If decisive importance is to be attached to the psychiatric judgment, it should be based on a personality investigation extending beyond what may be gleaned from the criminal acts as judged from a legal aspect. On the other hand, it cannot be theoretically correct, nor practically possible for the psychiatrist entirely to rule out such acts, when he is considering the question of psychopathy. The previous criminal record as well as the act now committed, granted sufficient proof, both legitimately contribute to the formation of the diagnosis of psychopathy, interwoven as it is with a social evaluation.

Concerning the vagueness of the concept of psychopathy, reference may be made, *e. g.,* to *Kinberg* in Festskrift for Helweg, 1946, p. 432, where the term "psychopath" is described as an emergency diagnosis including a variety of conditions.

The vagueness of the concept is reflected in the varying statements of different investigators concerning the frequency of psychopathy among criminals. There are reports of a few per cent. up to nearly 100 in respect of homogeneous prison populations, vide below on pages 202 *et seq.,* and it has been sarcastically remarked that each psychiatrist has his special concept of psychopathy. The importance of such differences, however, should not be exaggerated. Apart from extreme conceptions, it is agreed that a much higher frequency of psychopathy exists among criminals than among the average population, and that this frequency is considerably higher among persistent criminals than among occasional offenders; it is likewise agreed that psychopathy is a more important factor in crime, than any other abnormality such as insanity or feeblemindedness.

As regards the interrelation of hereditary and environmental

factors referred to above, reference may be made, *inter alia,* to *Jan Sachs* in Festskrift for Helweg, 1946, pp. 699 *et seq. Cf.* in this connection *P. A. Schwalbe-Hansen*'s follow-up investigations of children who had been diagnosed as psychopaths at the Municipal Hospital of Copenhagen in the years 1920—32; it turned out that the majority of these children had suffered only from bad environmental conditions and later could be called fully normal individuals (Hospitalstidende 1938, recounted by Dickmeiss in NTfS, 1941, p. 74). This and other experiences tell against making a diagnosis of psychopathy at all in respect of children. However, also in respect of adults it will often be an open question whether one is facing a psychopathy traceable to a predisposition or a behaviour anomaly which is chiefly due to social or psychic adverse conditions. For example, *B. Karpman* relates a case in the Journal of Criminal Law and Criminology XXXVI, 1946, pp. 305 *et seq.,* of a gangster who had always been considered a pronounced psychopath suffering in actual fact from a neurosis (originating in hate reactions in relation to the mother).

As regards the possibility of "curing" or influencing psychopaths or psychopathically marked persons, it has been emphasised by *Stürup,* Maanedsskrift for praktisk Lægegerning og social Medicin, 1941, p. 138, that not only are there great possibilities of influencing the development of psychopathically marked children towards a higher degree of harmony, but that many of the adults may be helped to suppress objectionable ways of reacting, to steer past the major reefs and thus to come to live a more normal life.

The practice of identifying chronic or professional criminality with psychopathy has been sharply and pertinently criticised by *Sutherland,* Principles of Criminology, New York 1947, pp. 116 *et seq.* The criminal behaviour in itself is no proof of mental abnormality. From a sociological aspect the "abnormality" of the criminal population is but the logical counterpart to the "normality" of the rest of the population.

Types of Psychopathy.

Even the narrowest definitions of psychopathy must cover quite a number of different types of character and temperament.

Countless attempts at typological classifications have been made, in part according to theoretical-systematical principles, in part according to more practical views based on the external characteristics of the abnormality. So far, no quite satisfactory or acceptable classification has been established, nor, probably, is one capable of establishment, since it is universally recognised that the distinguishing features of the different groups, though capable of isolation *in abstracto,* are in actual fact combined in a variety of ways.

The report of 1931 submitted by the Danish Psychopathic Commission mentions (pp. 6—7) as the main groups of psychopaths: 1) passionate, 2) exalted, 3) emotionally unstable, 4) reserved, 5) shallow-minded, 6) morally deficient persons, which groups are further described in the report. Later, a somewhat more differentiated typology established by the Austrian psychiatrist *Kurt Schneider* has gained much ground in psychiatry and has also formed the basis of Danish investigations of prisoners.

Only a brief summary of the designations employed and their meaning will be given here. It goes without saying that a single adjective is insufficient really to characterise such a complicated state of mind as that marking the individual psychopath, let alone a large group of psychopaths. Accordingly, the catchwords stated below should be taken as rough guides only. Otherwise reference may be made to Schneider's own exposition in his work "Die psychopathischen Persönlichkeiten", 4. Auflage, Vienna 1940, more particularly pp. 47—113.

Schneider characterises his 10 types of psychopaths as follows: 1) *hyperthymic* (of gay disposition, as a rule also of a sanguine temperament and with a certain activity), 2) *depressive,* 3) *self-insecure,* 4) *fanatic,* 5) *self-assertive* ("Geltungsbedürftige"), 6) *emotionally unstable* ("Stimmungslabile"), 7) *explosive* (impul-

sive), 8) *emotionally cold* ("Gemütlose"), 9) *weak-willed* (spineless), 10) *asthenic* (nervous weaklings)[1]).

Most of these types are divided into *subgroups,* of which only some of the most important will be mentioned here. Under the *hyperthymics* come unstable, pugnacious and spineless types, among the *self-insecure* psychopaths come sensitive (oversensitive) conscientious persons as well as persons with compulsion ideas and feelings, among the *self-assertive egocentric,* or ambitious, is a subgroup of pseudological or mythomaniac persons, *i. e.* pathological liars and swindlers, in connection with the *fanatic* psychopaths are mentioned the *paranoid* types, including persons who are querulous and jealous beyond all reason[2]).

The *criminalistic* interest of course centres primarily on the anti-social and asocial tendencies associated with the different forms of psychopathy. In such respect it is emphasised that the Schneider types of psychopaths, as mentioned above, include persons who *themselves* suffer from their abnormality as well as persons from whose abnormality *society* also suffers. Only the latter group (designated by Schneider as "störende Psychopathen") is of direct criminalistic interest. This group includes the following six of the basic types mentioned above: the *hyperthymics (the pugnacious or spineless subgroups), the fanatics, the self-assertive, the explosive, the emotionally cold and the weak-willed psychopaths.*

Concerning the types of offence which each of these groups, by their character, is liable to commit, it may be said in broad

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1) To these types *Rylander-Bendz* adds on pages 120 et seq.: psychopaths with periodic disturbances of impulse, such as dipsomania, poriomania, pyromania, kleptomania, vide above pp. 162 *et seq.*

Gabriel Langfeldt, Nordisk Psykiatrisk Medlemsblad IV, 1949, pp. 241 *et seq.,* describes the division of psychopathy used in American psychiatry, which is entirely different to that of Schneider, *cf.* the division adopted by the National Conference on Nomenclature in the United States, according to which a main distinction is made between division by conduct and division by genesis (origination, causal relations). The division by conduct distinguishes three main groups: pathological sexuality, pathological emotionality, anti-social or amoral features.

2) *Rylander-Bendz* pp. 113 *et seq.*

outline that the *hyperthymic pugnacious* particularly tend to commit libels, the *hyperthymic spineless* frauds, loafing and the like, the *fanatics* political crimes, the *self-assertive pseudologists* frauds and false accusations, the *explosive* crimes of excitement of any kind, the *emotionally cold* the more malignant and dangerous crimes (unscrupulous murders and robberies, terrorism, etc.) and the weak-willed, in particular if coupled with alcoholism and intelligence defect, persistent offences against property on a small scale (thefts, embezzlements, frauds and the like).

This enumeration, which is based chiefly on Schneider's own statements, is admittedly not very informative, it largely consists of paraphrases of what is already implied by the designation of the psychopathic group concerned. It becomes apparent again that the concept of psychopathy is so tied to social criteria as to make an account of the social, and especially the crimogenic importance of psychopathy something like a repetition of the elements on which the very diagnosis of psychopathy depends.

The six psychopathic groups enumerated above, *cf. Schnell,* Kriminalistische Abhandlungen XXII, Leipzig 1935, pp. 19 f., do not cover all the forms of psychopathy that, in the circumstances, may be crimogenic. Thus, the *depressive* psychopaths, though rarely criminal, may commit family murder ("extended suicide") and nostalgia offences (arson, etc.). In the *self-insecure* psychopaths compulsion motives may lead to criminality. *Schneider* recounts (p. 75) from *Mercklin* the case of a teacher allegedly committing a sexual crime from the pure compulsion motive of learning if a school-girl would allow herself to be taken by an old teacher. Schneider, however, assumes a very skeptical attitude to this case. The group of *emotionally unstable* psychopaths primarily commits non-criminal acts, such as running away, drinking, wasting money, but sometimes also arson and thefts, *vide* above concerning dipsomania.

Of the psychopathic forms mentioned above as criminalistically very important the *weak-willed* psychopaths and the *emotionally cold* psychopaths are supposed to be respectively the most frequent and the most dangerous types in relation to crime, *cf., e. g., Exner,* Kriminalbiologie, Hamburg 1939, pp. 250—51.

Danish forensic psychiatry affords a survey, by *P. Dickmeiss,* Juristen 1944, p. 312, concerning the psychopathic types diagnosed in the years 1940—42 among offenders referred for mental examination to the psychiatrist at the Copenhagen police and prisons. The survey covered 649 psychopaths. The table is given here with the different types of psychopathy in order of frequency:

Type	Theft, embezzlement	Fraud, forgery	Contraventions of Public Morals Warning and coitus interdiction	Violence, homicide, etc.	Sexual Crimes	Other Offences	Total
Weak-willed	241	33	19	5	17	5	320
Emotionally unstable	80	10	5	7	8	8	118
Self-assertive	38	47	0	8	2	4	99
Hyperthymic	13	21	0	2	1	5	42
Emotionally cold	19	0	3	3	1	1	27
Emotionally explosive	5	0	0	13	0	2	20
Nervous	5	1	0	2	1	5	14
Depressive	2	0	0	0	2	1	5
Sensitive	0	1	0	1	1	1	4
Fanatic	0	0	0	0	0	0	0
Total	403	113	27	41	33	32	649

In this connection it should be noted that in its diagnoses the Danish *Forensic Medicine Council* does not, as a rule, characterise a psychopathic condition by a single stereotyped term, but more often than not states a *combination* of characteristics, such as "emotionally unstable, egocentric type inclined to hysteric reactions", "emotionally unstable type inclined to emotional outbursts", "emotionally unstable, self-assertive type", "emotionally

labile, morally deficient type", "spineless, impulsive and morally deficient type", "spineless, emotionally unstable type inclined to hysteriform reactions", "hyperthymic type with propensity for mythomania and swindles", "fantastic, mythomaniac and amoral type", "self-assertive, mythomaniac type", "depressive, oversensitive type with propensity for reactive depressions", "sensitive and oversensitive type with propensity for reactive depressions, changing moods and hysteric reactions", etc., *vide* the Annual Reports of the Forensic Medicine Council for 1939—44, from which the examples have been taken.

The *emotionally cold psychopathic type,* owing in particular to the relation of this concept to older criminologically important views, should be discussed in greater detail.

Schneider describes persons belonging to this type as persons with no feelings of pity, shame, sense of honour, remorse or conscience (pp. 99 *et seq.*). It is this type which forms the core of the "born-criminal" concept of Lombroso as well as of the concept of *moral insanity*[1]) coined by Prichard as early as in 1835. This interrelation is emphasised if, as sometimes happens, the term *amoral* psychopaths is used about this group.

In the original meaning of moral insanity the word *"moral"* has probably stressed the emotional aspect, as opposed to the intellectual aspect. In the general conception, however, moral insanity has become a catchword indicating the existence of a disease or defect affecting only the morals of a person. When scientific psychiatry further defined the concept of insanity, it was recognised that there could be no question of a moral *insanity,* this concept presupposing, in principle, a progressive disease process. The terms *moral idiocy* or *moral imbecility* then came into use to point out that the condition implied a retarded development or an innate defect as in the case of feeblemindedness, only not in respect of the intellect in general,

[1]) *J. C. Prichard,* Treatise on Insanity and other Disorders affecting the Mind. 1835.

but particularly in respect of the ability to discriminate between good and evil, *cf.* also the term *"moral blindness"* that is sometimes used. According to more recent psychological conception, however, it is not purely or even primarily the reflective faculty that is important in the development of the moral sense, but the latter is the sum of a set of tendencies where the emotional components are of predominating importance[1]). Thus viewed the term of *moral anaesthesia* suggests itself[2]).

Common to all of these terms is their indication of an anomaly or defect with particular reference to the so-called moral sense. However, if it is recognised that this sense is no simple "ability", but a complicated concept including psychic factors ranging over the whole of conscious life, it is very unlikely that a deep moral defect may obtain as an isolated phenomenon in an otherwise intact personality, let alone that this defect should be capable of being traced to a particularly affected brain region. So it is not strange that the conception has come to consider what was formerly regarded as a specific moral insanity, as a manifestation of an altogether abnormal personality, a psychopathy with its main symptoms in the emotional nature, and that this has led to the concept of the emotionally cold psychopath.

The question still remains whether or not this psychic anomaly, which in the course of time has been viewed from so many angles, and of the actual manifestation of which experience leaves no doubt, is an innate and incurable norm deviation which particularly or even of biological necessity predisposes to criminal or anti-social behaviour. Considering what has been stated above concerning the interplay between hereditary and environmental factors and, in particular, concerning the concept of psychopathy, the affirmative answer to this question, which is the core of the whole of the Lombrosian and recent crimino-biological concep-

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1) Cf., *e. g., Bernard Hollander,* The Psychology of Misconduct, Third Impression, London 1928.

2) *Cf. v. Rohden* in MfK 1933, pp. 84 *et seq.*

tions is probably not capable of being upheld. The diagnosis of emotionally cold psychopaths must, according to recent practical experience, often be revised, when a closer knowledge is acquired of the personality of the person concerned and its development. Cold viciousness may hardly ever be safely considered a natural product, independent of social and psychic environmental factors in childhood and youth and insusceptible to all psychotherapeutic influence.

As regards the individual psychopathic forms, only a few words shall be said of the pseudological type of liar referred to above, which Schneider includes under the self-assertive psychopaths. The concept of *pseudologia phantastica* is derived from Delbrück's book: Die pathologische Lüge, 1891. A great number of such cases has been recounted in literature, *cf.* examples by *Schneider,* p. 87. They always relate to individuals who by fantastic swindling schemes again and again trick and deceive those they get in touch with. Their ability of deception is attributable to their identifying themselves with their part to the point of hardly being aware that they are lying.

27.
SEXUAL ABNORMALITIES[1]).

Persons with *sexual abnormalities* are often included within the group of psychopaths (sexual psychopaths). However, if it is considered characteristic of psychopathy that it is a defect or anomaly of the whole development of character — or in *Schneider*'s terminology that the psychopath is an abnormal persona-

[1]) There exists an almost inexhaustible literature on the subject. Often sexual abnormality is dealt with as part of the exposition of general sexual criminality or of sexual life in general. As principal works in foreign literature may be mentioned: *Krafft-Ebing,* Psychopathia sexualis, 16. und 17. Auflage, Stuttgart 1924; *Wulffen,* Der Sexualverbrecher, 10. Auflage, Berlin 1923; *Wulffen,* Das Weib als Sexualverbrecherin, Berlin 1925; *M. Hirschfeld,* Geschlechtskunde, III, Stuttgart 1930; *Havelock Ellis,* Psychology of Sex, Philadelphia 1933. — See also *Franz Rattenhuber,* Der gefährliche Sittlichkeitsverbrecher, Leipzig 1939; *Rud. Koch,* Über Sittlich-

lity — the purely sexual abnormalities should no doubt be separated from the concept of psychopathy as more special or delimited forms of abnormality, though the line of demarcation is by no means sharp.

The assertion is sometimes made that practically speaking *all sexual criminality* is pathologically determined, and if it is, the special sexual abnormalities become but parts of a larger whole. This conception, however, is no doubt too wide, *vide* below on the frequency of psychic abnormalities among criminals[1]).

Prior to the discussion of the sexual abnormalities, a few words should be said about *sexual criminality in general.*

A relatively large number of sexual crimes are committed by first offenders; persons previously convicted include many convicted for crimes other than sexual crimes, while recidivism from sexual crime to sexual crime in most forms is less frequent than generally assumed (and especially less frequent than in the case of crimes against property); if there is recidivism for another sexual offence, it is very often a sexual offence of the same nature as the previous one (homologous recidivism) and there is generally no tendency to aggravation. Another characteristic is the high average age of sexual offenders, in particular of those who commit obscenity and incest, but only to a small degree in cases of rape.

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keitsverbrecher, Leipzig 1940; *W. Norwood East,* Sexual Offenders, in Mental Abnormality and Crime, English Studies in Criminal Science, Vol. II, London 1944.

Of Danish and other northern European literature should be mentioned: *Chr. Geill,* Undersøgelse af danske Sædelighedsforbrydere (in Kriminalantropologiske Studier over danske Forbrydere), Copenhagen 1906; *Chr. Geill,* Sædelighedsforbrydere, NTfS 1921, pp. 1 *et seq.; Chr. Geill,* Sædelighedsforbrydernes Behandling, NTfS 1922, pp. 65 *et seq.; Hartvig Nissen,* Statistiske undersøkelser vedkommende sedelighetsforbrydelser, Oslo 1925; *Olof Kinberg* et alii, Sex läkare om sexualproblemet, Stockholm 1934; *Olof Kinberg,* Om kausalbehandling av sexualbrott, SvJT 1941, pp. 384 *et seq; Louis le Maire,* Legal Kastration i strafferetlig Belysning, Copenhagen 1946; *Gösta Rylander* in SvJT 1947, pp. 648 *et seq.* — See also Forhandlinger paa Dansk Kriminalistforenings 20. Aarsmøde. Copenhagen 1927.

[1]) Vide below p. 195.

Vide on the subject, in particular, *Louis le Maire, op. cit.,* pp. 98 f., 107 *et seq., Franz Rattenhuber,* Der gefährliche Sittlichkeitsverbrecher, Kriminalistische Abhandlungen, Leipzig 1939, *The New York City Mayor's Committee Reports in the Study of Sex Offences,* Journal of Criminal Law and Criminology, XXXIV, 1944, pp. 324 *et seq.*

Sexual offenders do not constitute one definite criminal type. Attempts have been made, on the other hand, to differentiate *a number of types within sexual criminality.*

Here may be mentioned the classification into two large main groups given by *v. Hentig* and *Viernstein,* Untersuchungen über den Inzest, Heidelberg 1925, p. 17: 1) the brutal type (vulgar criminals with erotic admixture) and 2) the sexually insufficient. The latter group, in particular, commit offences of a sexually abnormal nature.

Rattenhuber, op. cit., pp. 79 f., has six main types (among the 114 castrated sexual offenders investigated by him): 1) perverted, generally pedophiliac, 2) individuals being sexually abnormally endowed, 3) senile, 4) alcoholic types, 5) libertines, 6) persons whose sexual offence is a substitute for normal sexual intercourse.

In this connection mention should also be made of the attempt made by *Louis le Maire, op. cit.,* pp. 84 *et seq.,* 113 *et seq.,* to classify sexual criminality according to the causally most operative factors ("leitmotives"). Large groups recorded within the mass of sexual offenders investigated are those where the urge has been: alcoholic intemperance, puberty, feeblemindedness, mental retardation, sexual abnormality (162 of 3185 cases), sexual abstinence, psychopathy, housing conditions, senility as well as a number of minor groups. However, even with this very heterogeneous typification, the mass is far from being exhausted. By far the largest group is described as "With no ascertained motive", it thus being recognised that a substantial part of sexual criminality has no etiological homogeneous stamp, neither endogenously, nor exogenously.

Sexual abnormalities, understood as constitutionally determined anomalies of sexual life, constitute but a small numerical part of Danish sexual criminality (where homosexuality is generally

not punishable under the Criminal Law of 1930). The figures rise considerably, however, if the concept of sexual abnormalities is widened to include all the cases where the offence is directed towards a sexual object deviating from the normal (more particularly minors) or otherwise shows perverted features, regardless of whether the character of the anomaly is constitutional, neurotic, etc.

A review of the sexual abnormalities in the latter wider sense falls outside the scope of this book, even were the exposition limited to the criminalistically relevant aspects. In all essentials reference must be made to medical expositions; only a few observations will be made here, chiefly to explain certain concepts frequently met with in connection with sexual criminality.

The abnormalities may be divided into the following main groups: 1) *by sexual endowment:* hypersexuality and hyposexuality, 2) *by direction of sexual desire:* homosexuality, bisexuality and other special directions, 3) *other abnormalities* (exhibitionism, sadism, etc.).

Le Maire's investigation of the 3185 Danish sexual offenders convicted during the decade 1929—1939 reveals the following sexual abnormalities: homosexuality 45 cases, bisexuality 44 cases, hypersexuality and sexual hyperaesthesia 28 cases, pedophilia 15 cases, exhibitionism 13 cases, sadism 8 cases, fetishism 5 cases, masochism 3 cases and urolagnia 1 case (*op. cit.*, p. 122).

The vast majority of the sexual offences are relatively innocuous, *vide* concerning sexual crimes against children, reported in Copenhagen, *Aage Lotinga,* De seksuelt afsporede og Samfundet, Copenhagen 1947, pp. 71 *et seq.*

A brief summary of the *individual forms of abnormality* follows.

Homosexuality, the sexual impulse directed towards the sexual partner's own sex, may be constitutionally determined or may be due to habit formation. Whatever the cause, it is generally, like the normal heterosexual impulse, considered to be of no such imperative nature of irresistibility as not to be, to some extent,

subject to the control of the individual; and in most countries at least certain manifestations of homosexual tendencies are subject to penalty, such under Danish law being homosexual acts with minors, homosexual intercourse by force or similar unlawful means and homosexual prostitution, *vide* sections 225 and 230 of the Criminal Law of 1930. The number of male homosexuals in Denmarks is rather questionably estimated at about 3 per cent., *Lotinga, op. cit.,* p. 35.

Homosexual activity with boys is termed *pedophilia* — in its wider sense it includes all sexual intercourse with children — or, in particular in its most serious forms, *pederasty*. The abuse of boys and young persons under 18 years of age is liable to criminal prosecution and this group of offenders includes many persons in respect of whom punishment is of no avail and who may be castrated under existing legislation.

Very often the homosexual impulse is no pure impulse, but is combined with a normal sexual impulse. This doubleness of the sexual impulse is termed *bisexuality*.

Exhibitionism is a very common form of pervertedness, in particular among men. Its basic type is an obscene exposure of the genitals to women, often accompanied by masturbation. The term has been coined by *Lasègue* in the treatise Les exhibitionnistes, Paris 1884. A large number of criminologic investigations concerning this pervertedness exist, *vide, inter alia,* a number of articles in MfK 1907—08, pp. 122 *et seq.,* 350 *et seq. (Geill),* 1908—09, pp. 365 *et seq.,* 1910—11, pp. 377 f., 1929, p. 327, 1942, pp. 18 *et seq., W. Norwood East,* Medical Aspects of Crime, London 1936, pp. 193—208 (account of 150 cases of observation), *Maurice Floch* in Journal of Criminal Law and Criminology XXXVII, 1946, pp. 316 f. — A widespread, but disputed conception is that exhibitionism is largely attributable to a psychological automatism based on mental repression and insusceptible to the control of the ego-consciousness, *vide* below pp. 212 *et seq.* concerning the psychoanalytic theory, cf. the cases recounted by *Harald Prytz* in NTfS 1942, pp. 266 *et seq.*

Sadism is the term used to describe perverted acts characterised by a desire to inflict pain on the sexual partner, named after Marquis de Sade. By changes in the sexual mechanism the typical connection between the sexual act and the infliction of pain may be relaxed in different ways, so that the sadistic act is not

attached immediately to sexual acts or directed at the partner, *vide, e. g.,* the cases recounted by *Hulbert* and *Benjamin Karpman* in Journal of Criminal Law and Criminology XXXVII, 1946, pp. 191 *et seq.* The abnormality is found in all degrees, from harmless forms to the opposite extreme: the *lust murder.* This term relates only to cases where the homicide is directly interrelated with an abnormal sexual impulse, either acting as an equivalent of a sexual act or being part of such an act, as distinguished from cases where a rapist kills his victim without the murder itself being sexually motivated. Lust murder in the indicated proper sense is a very rare phenomenon, in this country at least. — Relevant literature is: *G. Ilberg,* Über Lustmord und Lustmörder, MfK 1905—06, pp. 596 *et seq., E. Walter,* Über den Lustmord insbesondere an Kindern, MfK 1909—10, pp. 691 *et seq., M. R. Senf,* Zur Psychologie des Lustmordes, MfK 1911—12, pp. 299 *et seq., Johannes Lange,* Lustmördertypen, Zeitschrift für die gesamte Neurologie und Psychiatrie, 1930, pp. 216 *et seq.* — Concerning such a case in Danish court practice *vide* the Annual Report of the Forensic Medicine Council, 1935, pp. 93 *et seq.*

As opposed to sadism, *masochism* — after the name of the author Leopold von Sacher-Masoch — denotes a sexual abnormality manifesting itself in a desire for suffering physical pain (algolagnia) and humiliation from the sexual partner. This form of perversion and its variants are generally of no criminalistic interest.

The same is now true of sexual intercourse with animals which occurs but rarely in this country, so-called *sodomy,* which was formerly considered one of the most serious sexual crimes (crimen bestialitatis), but which is no longer a criminal offence under the Danish Criminal Law of 1930; intervention may take place, however, under the rules governing cruelty to animals or measures may be taken under the legislation concerning insane and feeble-minded persons if the behaviour gives evidence of a deep psychic abnormality. — A strange case of this nature (a teacher's abuse of calves) is recounted in the Annual Report of the Forensic Medicine Council, 1944, pp. 1 *et seq.*

Of somewhat greater criminalistic importance is *fetishism* (Krafft-Ebing) meaning a fixation of the sexual interest on defi-

nite parts of the body, articles of clothing, etc., *vide G. Schrader,* Zur Psychopathologie des Fetischismus in MfK 1932, p. 667 (with references). This perversion sometimes leads to thefts and other offences motivated by the desire to possess the coveted fetish.

A number of other, more special forms of perversion cannot be discussed here.

28.
THE FREQUENCY OF PSYCHIC ABNORMALITIES IN CRIMINAL PERSONS

The most important forms of abnormality have been discussed in the preceding chapter and it has been indicated, in respect of each, whether they present crimogenic factors. In this chapter the investigation will be pursued from the opposite aspect, attention being focussed on the frequency of *psychic abnormalities in persons classified as criminal.*

In this field an extremely large number of investigations show widely varying results. The dissimilarities are in part due to the different senses in which the psychiatric terms are employed, but also to subjective factors and tendencies in the diagnostication, dissimilarities in the groups of offenders being investigated, etc. General indications of the abnormality rate in criminals are thus of not much guidance. A distinction should be made between different categories of convicted persons and between different forms of psychic abnormality.

In evaluating the figures indicated below the abnormality rate in the general population should be kept in view, *vide* above pages 84—85.

Investigations of Prisoners in Penitentiaries.

A large number of Danish and foreign investigations show that prisoners serving a penalty of a certain duration include a larger than average *number of individuals with psychic abnormalities.*

As concerns *earlier* investigations in this field, reference may be made to *Olof Kinberg,* Brottslighet och sinnessjukdom, Stock-

holm 1908, pp. 124 *et seq.* These investigations were primarily concerned with the question of *insanity* in prisoners. The figures here are generally considerably higher than those of more recent investigations in regard to mental diseases proper. The figures relating to psychic defects, on the other hand, are generally considerably lower than those of more recent criminological investigations.

More recent foreign investigations are discussed by *Olof Kinberg,* Basic Problems of Criminology, Copenhagen 1935, pp. 184 *et seq.*

The results of more recent *Danish investigations* have been shown by *Tage Kemp* in SvJT 1946, p. 571, to indicate a probable 50 per cent. of psychically abnormal Danish criminals, *viz.* 20—30 per cent. psychopaths, 5—20 per cent. mentally retarded, 5—10 per cent. feebleminded and about 5 per cent. persons with psychoses or related conditions. This average calculation, based on investigations both of prisoners and other subject-matter referred to below, should not be accepted without criticism, in view of the differences presented by these investigations on closer examination.

A brief summary of the Danish findings of investigations of prisoners follows:

George E. Schrøder, Psykiatrisk Undersøgelse af Mandsfanger i Danmarks Straffeanstalter, II, 1927, p. 112, in an investigation of 677 reformatory prisoners and 300 State prisoners, found that 27 per cent. suffered from psychic abnormalities other than alcoholism and that 18 per cent. were alcoholics. About 10 per cent. were feebleminded, about 1 per cent. insane (about 10 per cent. in respect of the State prisoners) and 15 to 16 per cent. psychopaths.

Karl O. Christiansen, NTfS 1943, pp. 41 *et seq.*, gives the results of an evaluation made by Paul Reiter of 126 State prisoners, all recidivists. Of these, 36 to 37 per cent. suffered from mental defects. About 2 per cent. were feebleminded, about 5 per cent. mentally retarded, about 30 per cent. psychopaths. Besides, 2 per cent. were suffering from prison psychosis.

Georg K. Stürup, Festskrift for Helweg, 1946, p. 783, in an investigation of 335 State prisoners, has found psychic abnormalities in approximately *80 per cent.* of them. This unusually high figure is analysed as follows (persons with several abnormalities being included under several groups):

		Percentage
Psychopaths	about	25
Psychopathic suspect	"	33
Psychoinfantile	"	12
Feebleminded and mentally retarded	"	14
Neuroses	"	20
Chronic alcoholism	"	4
Epilepsy	"	1
Senility	"	2
Nothing mentally abnormal	"	21

As will be apparent, these three Danish investigations show large variations, both in respect of the groups of abnormality and of the number of persons diagnosed as abnormal. The abnormality rate rises steeply from the first to the last of the investigations and it may be taken for granted that this rise is not due to a deterioration of the psychic structure of Danish prisoners through recent years, but to new methods of investigation and evaluation. The rise is chiefly due to an extension of the diagnosis of psychopathy and to an inclusion of mild anomalies within the field or borderline field of abnormality.

The Frequency of Abnormality in Offenders Referred for Mental Observation or in Other Special Groups.

Some of the statistical analyses referred to in discussions of the abnormality of offenders relate to especially selected subject-matter, *viz.* offenders who, owing to the nature of their offence or to psychopathically suspect features, have been referred for mental observation. One would *a priori* expect a far higher frequency of psychic abnormalities in these prisoners, as compared with those referred to above, but this has not been the case as far as the existing Danish investigations are concerned, owing no

doubt to the greater reserve on the part of the psychiatrists concerned in the diagnostication of abnormality.

Of such investigations the following should be mentioned:

August Wimmer, Ugeskrift for Læger, 1927, p. 328, gives a survey of psychic abnormalities in 1,212 criminals who have been subjected to observation during the years 1905—26. They included 366 feebleminded persons, 411 psychopaths and 105 alcoholics as well as a few cases of various mental diseases.

Carl Clemmesen, in Ugeskrift for Læger, 1934, pp. 1100 *et seq.,* gives an account of 140 observations undertaken by him in 1933 in connection with the investigations referred to in sect. 56 of the Criminal Law, *viz.* of offenders whose sentence was likely to be suspended and who might thus be called petty offenders. The total number of sect. 56-investigations during the period concerned was (in Copenhagen) 754. A medical examination was only made in special circumstances and the author rightly states that his figures are hardly capable of giving an average impression of the mentality of Copenhagen petty offenders. Among the persons investigated Clemmesen found *53 per cent. psychically normal,* 13 per cent. mentally retarded, 5 per cent. feebleminded, 21 per cent. psychopaths and 3 per cent. with psychotic conditions (besides 4 per cent with psychogenic depressions contracted after the offence).

P. Dickmeiss, Politiet, 5th volume, 1942—43, states that of about 3,600 criminals examined by the chief psychiatrist of the police for the Copenhagen Police during the years 1936—41 about 16 per cent. had mental defects (5 per cent. feebleminded, 11 per cent. mentally retarded), and about 28 per cent. were psychopathic, *cf.* the same author in Juristen 1944, pp. 305 *et seq.*

In this connection a Swedish investigation should be mentioned: *Gunnar Inghe,* Mental Abnormalities among Criminals, Acta psych. et neur., XVI, 1941, pp. 421 *et seq.,* whose subject-matter covers forensic-psychiatric certificates relating to persons convicted in Sweden in 1935. The author finds that psychic abnormality in offenders is found more frequently in women than in men, more frequently in old than in young persons, more frequently in single than in married persons and more frequently in the rural than in the urban population. There have been relatively

more psychopaths among the more well-to-do classes (which may be due to the fact that more of the well-to-do have been sent for psychiatric examination). Within the different types of crime, the largest number of psychically abnormal has been found among the sexual criminals, and the rate is also high among persons committing crimes of violence and arson.

Of *sexual offenders* referred for mental observation, *Louis le Maire,* Legal Kastration i strafferetlig Belysning, 1946, pp. 102 *et seq.,* states that they constitute well over one half of the 3185 persons convicted for sexual offences in the decade 1929—39. Of this half 49 per cent. were considered abnormal. Viewed in proportion to the whole of the subject-matter the percentage of demonstrated abnormality is about 27. It cannot be taken for granted, however, that this relatively low figure is indicative of the actual abnormality rate, there being no grounds for assuming that all the non-examined cases are normal[1]).

In connection with these investigations of criminals with particular suspicion of taint by psychic abnormality, mental examinations of *prostitutes* should not be overlooked, prostitution to some extent being equivalent to criminality in men.

Tage Kemp, Prostitution, 1936, p. 243, found that no less than 81 per cent. of 530 prostitutes charged by the Copenhagen Police, were psychic defectives. Of these 23 per cent. were psychopaths, 8 per cent. feebleminded, 19 per cent. mentally retarded (pronounced) and 23 per cent. mentally retarded (mild) as well as 8 per cent. psychotic personalities or otherwise mental deviates. In evaluating these data it should be borne in mind that these women generally belong to the lowest class of prostitutes and that the diagnosis of intelligence defect has been given a particularly wide latitude. In summarising his investigation in SvJT 1946, p. 570, the author has, indeed, ruled out the mild cases, which reduces the percentage of psychic defectives to 58.

P. Dickmeiss, too, has found a high frequency of mental defectives among prostitutes of the special subject-matter referred for mental examination by the police: 15—16 per cent. feebleminded,

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[1]) Vide *Stürup* in Menneske og Miljø, II, 1947, pp. 115 f., according to whom the actual number of abnormal must be considered far greater; *cf.* also *Aschaffenburg* in MfK 1905—06, p. 402; *Kinberg* in SvJT 1941, pp. 384 *et seq.*

24—25 per cent. mentally retarded, *vide* Politiet, 5th Volume, 1942—43, p. 243.

Are these Figures Representative in Character?

The data available concerning the frequency of psychic abnormalities in criminals referred for mental observation as psychopathic suspects cannot, of course, be used as evidence of the abnormality rate in criminals in general, which nevertheless is sometimes done. Nor do the figures derived from general investigations of prisoners have the representative character for criminality in general that is often ascribed to them.

On the other hand, the abnormality rate should be *increased* by including under the abnormal the persons who, owing to irresponsibility, have not been charged or punished or who, after having been sentenced, have been transferred to a lunatic asylum or similar institution. On the other hand, the abnormality rate should be *reduced* if it is to relate not only to prisoners but to all persons convicted, irrespective of the nature of the penalty, or to persons in respect of whom the charge has been withdrawn.

As regards the increase, in Denmark, the annual number of convictions where, under sect. 70 of the Criminal Law, preventive measures replace punishment, amounts to 1 to 2 per cent. of the total convictions under the Criminal Law[1]). In this connection it is of interest to note that by 1 April 1945 a total of 632 abnormal criminals were placed in mental hospitals, under the public welfare for feebleminded, in institutions or prisons for psychopaths, while the number of prisoners in penitentiaries at the same time was 2773.

However, the *reduction* of the abnormality rate which would result from the inclusion of the thousands of perpetrators of *petty offences,* including contraventions of police regulations, among the offenders forming the basis of this calculation is

[1]) In the years 1933—43, on an average 25 men (and a few women) were sentenced to placement in hospital.

numerically of far greater importance. It should be borne in mind that only a small fraction of the penalties inflicted involved imprisonment and that, in turn, it is but a small fraction of the latter which is of such nature and duration as that generally assumed in the criminological investigations of prisoners. The figures indicated in the latter, in other words, bear relation only to a numerically small, though qualitatively important, section of the criminal field.

By way of illustration it may be mentioned that according to the Danish Criminal Statistics for 1947, published in 1950, about 56 per cent. of the total number of prosecuted offences were police cases (the criterion generally being that no penalty higher than a fine or detention can be imposed). While the number of sentences of imprisonment was about 10,000, the number of fines (by sentence, acceptance or imposed by a magistrate) exceeded 151,000, to which must be added between 3,000 and 4,000 penalties of detention. Of the 10,000 or so sentences of imprisonment for violations of the Civil Penal Law, about 60 per cent. did not exceed six months. In this connection it should further be taken into account that a considerable number of sentences of imprisonment, though imposed, are not served under the provisions governing suspended execution of sentence.

If, however, one ignores the "petty offences" and keeps to the *"actual" criminality,* so as, for example, to apply the criterion of imprisonment for violation of the Criminal Law, it must be recognised that the ordinary investigations of prisoners are not even representative of this criminality. It is practically always only the minority of prisoners sentenced to relatively long terms of imprisonment who so far have been made the subject of criminological investigation with the attending psychiatric evaluation. In this country only prisoners with a minimum of five months' imprisonment are admitted to State prisons and have therefore been subjected to the investigations discussed above.

Of considerable interest, therefore, is a recent investigation of the frequency of abnormality among criminals exclusive of mere

petty offences, but on the other hand not confined to State prisoners only. It is one published by *Kurt H. Fremming* in Festskrift for Helweg, 1946, pp. 257 *et seq.*

This investigation is, as mentioned above based on the population born in the Danish island Bornholm during the years 1883—87. This population was followed up to 1944 and it appears that among the well over 4,000 subjects there were 57 who had committed offences grave enough to be considered as criminal, *vide* further *op. cit.*, p. 265. Among these persons the author found the following mental conditions:

	Absolute Figures	Percentage
Normal mentality	25	47.2
Mentally retarded	2	3.8
Feebleminded	3	5.7
Psychopaths	15	28.3
Psychopathic suspects	4	7.5
Chronic alcoholics	2	3.8
Schizophrenics	2	3.8
Not investigated	4	7.5

This investigation is in some ways the most representative. There are several reasons, however, for not drawing general conclusions from it. First of all the small number of criminals. If, for example, it turns out that the percentage of the mentally retarded is smaller than that of the feebleminded, it is no doubt due to accidental circumstances in the small figures concerned. Despite all reservations, however, the investigation is an important index.

The results of the Danish investigations referred to above are embodied in the table below p. 199.

In Particular: Insanity.

As will be apparent from these findings, it is chiefly the psychopathic character defects (and related conditions: mild character defects, alcoholism) and intelligence defects that swell the figure of abnormality. As regards the mental diseases, there is generally no relevant excess as compared with the average population.

	Psychoses	Feebleminded and mentally retarded	Psychoinfantile	Psychopaths	Mild character defects (psychopathic suspect)	Neuroses	Chronic alcoholism	Psychically normal
Schrøder, 677 reformatory prisoners; 1917	3%	10%		16%			18%	55%
Reiter, 126 State prisoners; 1943		7%		30%				63%
Stürup, 335 State prisoners; 1946*) ...	3%	14%	12%	25%	33%	20%	4%	21%
Fremming, the (57) criminals of the population born in Bornholm 1883—1887; 1946	4%	10%		28%	7%		4%	47%

This more or less tallies with the results of foreign investigations of recent years.

Cf., e. g., Sutherland, Principles of Criminology, New York 1947, p. 107: psychiatric examinations of criminals on admission to State prisons generally show no more than 5 per cent. to be psychotic, and in many institutions less than 1 per cent. The majority of psychotic persons do not commit crimes.

Hooton, Crime and the Man, 1939, pp. 382 f., on the basis of his correlative statistical investigations of anthropological characteristics in the insane and criminals, reaches the conclusion that "criminality and insanity are separate and not necessarily related manifestations of inferior human organisms".

*) Persons with several psychic defects are included under several headings.

As regards German investigations, reference may be made to *Exner,* Kriminalbiologie, Hamburg 1939, pp. 217 *et seq.* These investigations have found 1 to 2 per cent. insane among the inmates of penitentiaries.

In Particular: Feeblemindedness and Minor Intelligence Defects.

Helweg recounts the results of a number of Danish and foreign investigations, adding: "With due regard to the varying conceptual determinations, it may altogether be taken for granted that about one fourth of the total number of offenders are of subnormal intelligence, though in some statistics persons who are elsewhere diagnosed as mentally retarded are included under the feebleminded"[1]).

This statement should no doubt be followed by a question mark. The recent Danish investigations of prisoners referred to above do not reach this high figure for the feebleminded and mentally retarded, and *Fremming*'s investigation shows but 10 per cent. to be of defective intelligence.

Turning to foreign literature, we shall find widely varying figures. Of particular interest are some recent American investigations. According to *Sutherland* the total result shows no significantly higher proportion of feeblemindedness in criminals than in the average population[2]). He makes reference to a comprehensive investigation by *L. D. Zeleny* in 1933 showing that the ratio of delinquents to the general population in respect of mental deficiency was about 1.2 to 1, and his conclusion is that the relationship between crime and feeblemindedness is, in general, comparatively slight; age and sex are certainly more important factors. Against this view on the other hand, stand the intensive investigations made by the *Gluecks* of different groups of criminals, which show a considerably higher frequency of intelligence defects among the latter than in the control-groups, *vide* further below.

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[1]) *op. cit.* p. 103.
[2]) *op. cit.* p. 105.

Earlier American criminology assumed an extremely high rate of feeblemindedness among criminals. The principal representative of this view is *Goddard,* according to whom 50 per cent. of all criminals should be mental defectives. Of *Cyril Burt*'s 200 offenders, about 8 per cent. were feebleminded (I. Q. 50—70), as against 1 to 2 per cent. of the whole population. In his investigation of 530 prostitutes, *Tage Kemp* found 7 to 8 per cent. to be feebleminded. More recent comparative examinations of the intelligence of prisoners and soldiers, however, have not confirmed the contentions of a particularly low intelligence level, let alone a widespread feeblemindedness among criminals, as compared with the general population, *vide Murchison,* Journ. of Criminal Law and Criminology, 1924, pp. 239 *et seq.,* 435 *et seq.,* and the same author, Criminal Intelligence, Clark University, 1926. The most extensive investigation has been undertaken by *Tulchin* in 1939; it related to more than 10,000 prisoners who were divided according to different types of offence, and resulted in the conclusion that the prisoners were superior to the soldiers in the intelligence tests of the Army (*S. H. Tulchin,* Intelligence and Crime, Chicago 1939; recounted from *David Abrahamsen,* Crime and the Human Mind, London 1945, p. 45). In the investigation by *Torsten Sondén* referred to above p. 173, of 200 prisoners in Scanian penitentiaries, sentenced to terms of imprisonment of not less than six months, there was no downward intellectual trend, as compared with the general population; on the contrary, there was a large number (20 per cent.) of supernormal intelligence.

Sheldon Glueck and Eleanor Glueck have produced results of investigations of intelligence defects in criminals in several works. They summarise these results in the work published in 1945: After-Conduct of Discharged Offenders, London, p. 13. It is ascertained here that the radical contentions of a high rate of feeblemindedness in criminals which were put forward during the first decennia of this century must be considered untenable in the light of later investigations with improved techniques, etc. The comparative investigations by the Gluecks show, however, an excess of intelligence defects among the criminals, as compared with the non-criminal control-groups. They found 59 per cent. of delinquent children to be of subnormal intelligence, as compared with only 21 per cent. in the control-group (school pupils from three different towns in Massachusetts), and of the of-

fenders 13 per cent. were definitely feebleminded, as compared with only 1.5 per cent. of the control-group. — Among the young adult offenders 67 per cent. were found to be of subnormal intelligence and 20 per cent. are included under the group of mental defectives (feebleminded). — *Vide Glueck,* 500 Criminal Careers, pp. 154 *et seq.,* and 500 Delinquent Women, pp. 192 f., and Unraveling Juvenile Delinquency, 1950, pp. 198 *et seq.*

As regards *German* investigations concerning the relationship of criminality to defective intelligence, reference is made to the survey by *Exner,* Kriminalbiologie, p. 231. The percentage of "Schwachsinnige" — including the feebleminded as well as persons with mild intelligence defects — ranges in the different investigations from 8 to 65, being particularly high in respect of early criminals and recidivists.

In Particular: Psychopathy.

As pointed out several times it is primarily the assumption of "psychopathy" or related anomalies that swells the rate of abnormality in recent criminological investigations. Considering the vagueness inherent in the concept of psychopathy and still more in its extensions in recent years, *vide* above pp. 174 *et seq.,* it is no wonder that the indications and the occurrence of such abnormalities in criminals vary as much as they do. In the recent Danish investigations referred to above the frequency of psychopathy varies from 16 per cent. among Schrøder's reformatory prisoners to 25 per cent. plus 34 per cent. psychopathic suspects in the case of Stürup. If account is also taken of foreign investigations, the heterogeneity is still more pronounced. Suffice it to refer to the figures given by *Sutherland*[1]): While the psychiatrists in New York and Massachusetts reported 10 per cent. of incoming criminals to be psychopathic personalities, more than 75 per cent. were so reported in Illinois. The vast German literature shows the same picture. A tabular survey in one of the most recent German works on the results of a number of authors concerning psychopathy in different criminal groups shows that the

[1]) *op. cit.,* pp. 109 *et seq.*

figures range from 11 per cent. (Fetscher's 818 violators of children) to 99 per cent. (Stumpfl's recidivists)[1]).

These great differences are in part, but in part only, due to the heterogeneity of the different criminal groups being investigated, *vide* immediately below especially on the distinction between non-recidivists and recidivists. The very high figures, however, are largely due to the fact that criminal, in particular persistent criminal behaviour itself, is indicative of a psychopathic abnormality of character. Whatever view is taken, it must be recognised that the inclusion of psychopathy and mild character anomalies as predominating factors in the concept of abnormality has largely modified the latter. The doctrine that criminals include a large number of abnormal individuals or that all grave criminals are psychially abnormal may seem to have been upheld from Lombroso to our days, but in point of fact it has quite a different meaning now. Formerly, abnormality was synonymous with insanity, and if the contention of the psychiatrists as to the relationship between criminality and abnormality were right, there could be no question of punishment. Now, the core of abnormality is a character anomaly, vaguely and gradually demarcated from the normal sphere, partly evaluated by a judgment of the social adaptability of the individual and possibly susceptible to punitive measures. And another important difference: while insanity, in its original, more narrow sense, would always be considered as "causal" in relation to the behaviour of the insane person, the interplay between endogenous and exogenous factors in the genesis of crime approaches in the mildly psychopathic personality the situation of the normal person. This opens up the possibility of a motivating power of the menace of punishment. It is obvious that in extending the concept of irresponsibility of the criminal law, consideration should be given to this modification of the concept of abnormality. The grounds which have told in favour

1) *Rattenhuber,* Kriminalistische Abhandlungen XXXIX, Leipzig 1939, p. 54.

of exempting insane persons from criminal responsibility do not rightaway tell in favour of exempting psychopaths from such responsibility. The principal question here is what is the most adequate *form of treatment* within the scope of the penal system. Thus, however, the problem is set differently from the original point of departure.

As formerly mentioned, the high figures of psychopathy are found, in particular, among the early and persistent *recidivists.* In the face of investigations demonstrating this fact, more particularly in recent German crimino-biological literature, one cannot help feeling that great efforts have been taken to prove an obvious thing, the diagnosis of psychopathy and the deep-rooted criminality of a certain degree of gravity being so closely connected as to be almost identical.

Comparative investigations of first offenders (non-recidivists, etc.) and recidivists with reference to psychic abnormalities have, at the outset, been undertaken in particular in Belgium by *Louis Vervaeck.*

The large majority of such investigations originate in Germany and are strongly marked by the view that a biologically determined correlation exists between character traits and grave criminality. Reference is here made to the survey given by *Exner,* Kriminalbiologie, p. 247.

The most important of the German investigations is *Friedrich Stumpfl,* Erbanlage und Verbrechen, Berlin 1935, pp. 143 *et seq.* While among his 166 non-recidivists he only found 24 (14.5 per cent.) who might be diagnosed as psychopaths, all of the 195 recidivists, except 2, thus 99 per cent., were definitely psychopathic according to his diagnosis. The author's comments should be quoted (p. 143): "However much, in each particular case, I refused to assume character abnormalities, it turned out time and again, when the documentary material increased and the insight in the whole of the career became deeper, that the modes of behaviour sprang from even grave character abnormalities. This led to ascertaining a psychopathic personality, never from recidivism as such, but only from the psychic conditions which time and again were productive of criminality ... In the large

majority of the cases the detailed data and reports as well as the personal impression leave no doubt that these persons have grave innate character abnormalities". Of the 195 cases Stumpfl includes 140 or 72 per cent. under the hyperthymic, weak-willed or emotionally cold psychopaths. Most of the cases come under no less than two of these groups. No other abnormalities are anything like as frequent (p. 145).

Of Danish investigations particular mention should be made of *Stürup* and *Christiansen*'s unprinted work, 335 Statsfængselsfanger, 1946, pp. 100 f., relating to the incidence of psychopathy among the different career types, *vide* below pp. 403 *et seq.* This investigation shows a distinct increase of the percentual incidence of the psychopaths from "beginners" to "grave persistent criminals", *viz.* from 5 to 38 per cent. Very much the same may be said of the mild character defects. Taking psychopathy and mild character defects together, there is a rise from about 33 per cent. in respect of beginners to about 76 per cent. in respect of the mild and grave persistent criminals. Hyperthymia predominates, then come sensitive, weak-willed and self-assertive psychopaths in the order indicated.

CRIMINO-PSYCHOLOGICAL OBSERVATIONS

29.

GENERAL AND SPECIAL CRIMINAL PSYCHOLOGY

There is no clear-cut line of demarcation between abnormal and normal psychology. The transititons are particularly flowing in the criminal psyche. Here the study of the psychic abnormalities referred to above and the study of the psychic phenomena which are generally considered to fall within the scope of normality overlap. This connection is sometimes stressed by including both branches of study under the term *criminal psychology.*

On the other hand, however, it would be appropriate also to segregate the study of the more normal psychological processes

at the basis of criminality from the psychopathological sphere. Here criminology turns from psychiatry to psychology. It is the latter science that should form its primary basis, when probing into the psychological course of development resulting in criminal behaviour outside the sphere of abnormality. This study is not only related with, but forms part of general psychology and it is generally this study in particular one has in mind, when talking about criminal psychology.

In this more narrow sense, criminal psychology is thus opposed to criminal *psychopathology.*

The term criminal psychology, however, is used in widely varying senses, sometimes — more particularly in earlier expositions — so widely as to cover the greater part of the whole of criminology, *vide, e. g., P. Pollitz,* Die Psychologie des Verbrechers, Leipzig 1909. Often included as well are *judge and witness psychology,* etc.[1]).

In a recently published treatise *Kinberg* makes a dinstinction between objective, subjective and social criminal psychology. *Objective* criminal psychology is focussed upon "the nature of the functions of the criminals" (intelligence level, character traits, etc.), *subjective* criminal psychology is directed at "the experiences of the criminal during the period of psychological preparation of a crime, his psychic reactions to the stimuli having led to the crime, his reactions after the criminal act, his moral attitude to the crime, etc."; and finally *social* criminal psychology is aimed at studying "the impact of the socio-psychological factors on the individual" during childhood and the further development (*vide* further Nordiska Kriminalistmötet in Stockholm 1947, Records pp. 101 *et seq.*).

No systematic review of criminal psychology (in the narrower sense referred to above) can be given as part of a general crimi-

[1]) *Vide Poul Bahnsen,* Vidnesudsagnets Upaalidelighed, 1936, with literary references; *Arvid Wachtmeister.* För ung at tala sanning?, Stockholm 1943; same author, Vad är sanning? Vittnespsychologiens grunddrag, Stockholm 1933; *Olof Kinberg,* Socialpsykologiska faktorers inflytande på brottmålsprocessen, in Menneske og Miljø 1946, pp. 22 *et seq.,* 60 *et seq.; Th. Erismann,* Psychologie und Recht, Bern 1947, pp. 60 *et seq.; Hurwitz,* Den danske Strafferetspleje, 1949, § 41, III, A.

nological exposition. Criminal behaviour is part of general human behaviour and its psychology is part of general psychology. A knowledge of the latter is the first condition for understanding criminal psychology. There can be no question, however, of explaining general psychology here, even elementarily. No criminologic studies may be carried on without a supplementary study of psychological factors in general.

Nor may a systematic exposition of psychology applied to criminality be given within the scope of this book. In such respect the extensive special expositions already available should be consulted.

Vide in particular *Erich Wulffen,* Kriminalpsychologie, Berlin 1926, who in the third and fourth volumes of the work gives an intensive account of the psychological mechanism underlying criminality, partly in general, partly with reference to individual types of crime. — *Vide* also *F. E. Louwage,* Psychologie et criminalité, Ninove (Belgium) 1945.

Here only certain major problems and features of particular importance in criminal psychology will be pointed out. Otherwise, crimino-psychological problems have been touched upon in quite a number of places where they bear a special relation to the subject discussed.

In the sequel, *general* criminal psychology is particularly held in view, *i. e.,* the criminal psychology concerned with criminals in general, as opposed to the *special* criminal psychology stressing typical psychological features of individual types of crime, such as murder, arson, theft, embezzlement, incest, exhibitionism, etc. True, the most valuable observations have been made within the special criminal psychology, but it is not possible to touch upon such details in this exposition of the general part of criminology.

30.
PREDOMINATING FEATURES OF THE CRIMINAL PSYCHE

Earlier criminal psychology often particularly stresses "egoism", "vanity", "weakness", etc., as broad predominating features of the criminal psyche. Generalisations of this nature are, of course, of no great value. A "criminal psyche" common and peculiar to criminals in general or even to the persistent, grave criminals does not exist. The demonstration of typical psychological characteristics requires further distinctions within the criminal population. And even within more specialised groups the principal interest is associated with psychological investigations of the individual.

As regards the "psychic degenerative stigmata" in the "genuine" criminals stressed by *Lombroso, vide* above p. 114. Such and similar character marks are met with in numerous later crimino-psychological works, but have gradually lapsed into the characterisation of different psychopathic types.

A distinction may be made between *two main tendencies within the generalising evaluation* of the grave criminals. The one stresses egoism, mischievousness, a hate attitude and similar positively anti-social factors, the other emphasises weakness, lack of backbone, laziness and similar negative (asthenic) features. Viewed in such generality, it would no doubt be safe to say that characterisations of the latter nature are the nearest approach to the actual fact as far as the majority of criminals are concerned[1]). In northern European literature this view has been strongly emphasised, among others by *Alexander Kraft,* Kriminalogiske Studier, 1902, pp. 28 *et seq.; vide* also *Andreas Bjerre,* The Psychology of Murder, London 1927, who stresses weakness (livsodugligheten) as the common basic feature in the criminal types investi-

[1]) A type with a more positive character, marked by energy, audacity and love of adventure, however, must be said to be predominant, in particular among young offenders, in unsettled times, such as the present post-war period.

gated by him[1]). — A somewhat similar later view is that criminals (anti-social adults) are largely of the same psychic make-up as *vicious children, vide* also *Gustav Jonsson* in Else Kleen *et alii,* Fången, människan, straffet, Stockholm 1944, pp. 114 *et seq*[2]).

If unscrupulous *egoism* has been stressed as a common feature of the criminal psyche, this is to some extent associated with the theory of the criminal character as a regression to the mentality of savage peoples (the atavism theory), the formation of altruistic feelings having been considered as belonging to a later cultural level of evolution *vide, e. g., Angiolella* in MfK 1905—06, p. 250, and against this view *Bonger,* Criminality and Economic Conditions, Boston 1916, pp. 381 *et seq.*

As countless examples of *criminal vanity,* occur in criminopsychological literature, it would be appropriate to ask like *Wulffen,* Kriminalpsychologie, Berlin 1926, pp. 195 *et seq.,* if this is a primary phenomenon or a compensation for a feeling of inferiority originating in the low social rank of such persons. This vanity, then, is but a manifestation of the universal human *need of self-assertion* which no doubt is as important in criminal as in social behaviour. As regards cases where this need manifests itself with abnormal force, reference is made to what has been stated above on page 179 concerning the self-assertive psychopaths.

The greatest drawback of the generalising criminal characterisations stressing a few repellent character traits is an *oversimplification* of the mentality concerned. In actual fact, the individual psyche always presents a mixture of conflicting features. Criminal history is full of accounts of kind-hearted, sympathetic reactions in one or the other direction, for example to children, animals, relatives, in persons who again and again have been able to commit the most outrageous crimes with no evidence of distress. In such cases one talks of the presence of *contrast feelings* in the

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[1]) The weakness or the general unfitness for life of murderers is found, according to Bjerre, in varying forms which are all means to escape reality, in particular [1]) *the self-deception,* [2]) the self-abandonment, marked by inactivity and *fear,* [3]) *seeming life* through imitation of the norms of the environment with no personal feelings or instincts.

[2]) *Cf.* below pp. 265 f. on *lack of maturity* as a characteristic feature of the criminal psyche.

criminal psyche[1]). This phenomenon, which often excites profound surprise, is neither abnormal nor exceptional. No one is a criminal at all hours. The large-scale murderer, the big criminal also has an existence where he follows the general social rules of conduct and expects others to respect them. As a rule, it is this normal aspect of the personality that may be observed, when the criminal is brought before the court as an accused. This duplicity or multiplicity of the human psyche has perhaps never been so patent as in the war criminals whose atrocities have been ascertained after the second world war. Pitiless, often sadistic, large-scale murderers, have often been at the same time nice family men and loyal soldiers.

31.
PERSONALITY AND THE PSYCHIC COURSE OF DEVELOPMENT LEADING TO A CRIME

One of the most important acknowledgements of more recent criminal psychology is that no real understanding of the psychic course of development in connection with a crime can, as a rule, be obtained unless this course is not only studied in isolation but is also related to the whole development of the personality of the perpetrator. The study of personality, its development and actual structure, has become the main task of criminal psychology, just as the study of abnormal personality is the core of criminal psychiatry, *vide* what has been stated on the subject in the preceding parts of this survey. As regards the study of personality within the sphere of normal psychology, psychological scientific literature should be consulted. However, among the test methods applied in analysing personality the *Rorschach* interpretation tests have proved particularly profitable in a number of recent Danish investigations of criminal personalities being difficult of approach

[1]) *Vide* examples by *Wulffen,* Kriminalpsychologie, Berlin 1926, pp. 193 *et seq.,* who, inter alia, mentions kindness to animals in murderers, *vide,* in particular the case of Schunicht, the joiner ("the criminal's canary").

(torturers and terrorists among the traitors). The importance of *graphological* character analyses, too, seems to be increasing.

As to the importance of personality studies, more particularly the study of the *development* of personality ("dynamic personality theory") in relation to the problem of the genesis of crime, reference may be made to a recent treatise by *Fritz Schmidl* in Journal of Criminal Law and Criminology XXXVII, 1946, pp. 37 *et seq.*

A popular exposition of *Hermann Rorschach*'s tests is given by *John Landquist* in Människokunskap och människobehandling, Stockholm 1941, pp. 305 *et seq.; vide* also *Nancy Bratt-Østergaard* in UfL 1938, pp. 534 *et seq.*, and in Nordisk psykiatrisk medlemsblad, III, 1949, pp. 14 *et seq.*, (Rorschach-testing of 126 Danish traitors); *Max Schmidt, ibid.*, pp. 18 *et seq.* (the forensic-psychiatric application of the Rorschach test).

As concerns the psychological course of development in relation to concrete criminal behaviour, it seems natural to analyse this "inner situation" separately in respect of the conditions prior to, during and after the deed. Each stage presents some special psychological problems, such as the maturation or "incubation" of the criminal impulse, the *impact of the criminal tool* on the perpetrator during the execution of the deed, and *remorse or the absence of remorse* after the deed[1]). Some of these problems come under general criminal psychology, but no deep analysis of any of them can be given except in relation to the individual types of crime (the psychology of murder, the psychology of arson, etc.). For this reason alone no detailed review will be given here of the psychological questions associated with these stages; only a few general views common to all of them will be pointed out.

In earlier psychology and generally still in the legal theory of

[1]) *Vide supra* p. 114. — *Vide,* on the question of remorse in criminals, *N. Tersiev,* Die Bewertung ihrer Taten seitens der verurteilten Mörder, MfK 1930, pp. 198 *et seq.; Kurt Schneider,* Zur Psychologie und Psychopatologie der Reue, MfK 1921/22, pp. 40 *et seq.; Th. Erismann,* Psychologie und Recht, Bern 1947, pp. 38 *et seq.* To some extent connected with the question of lack of remorse is the question of the frequency of *denials* by convicted criminals. Of the 335 State prisoners investigated by *Stürup and Christiansen,* nearly 12 per cent. denied their crime.

premeditation and motives, an undue weight is given to rational, logical considerations and resolutions, in relation to the human life of action. The part played by *irrational factors* to actions in general and to crimes in particular has now been realised to a greater degree than formerly, thanks not least to the schools of Freud and Adler. Whether one believes in an unconscious motivation dictated by repressed wishes and ideas (Freud) or in a motivation where overcompensated feelings of inferiority operate as the driving force (Adler) or one rejects generalisations of such and similar nature, it must be recognised that the psychological motivation process preceding a criminal act is often, in the case of certain crimes even as a rule, dominated by emotional and instinctive impulses or moods. These hardly give scope to reason other than rationalising the dim impulse and providing arguments for the justification and successful accomplishment of the purpose[1]).

Of great and recognised importance to human emotional nature and to the understanding of certain crimes is *ambivalence,* which means a mixture of love and hate in relation to the same object, a simultaneous or rapidly alternating attraction and repulsion. This conflict of feeling is in itself a normal phenomenon. As a rule, the contrast is balanced; however, if it is not it may take abnormal forms involving a violent release of the emotional conflict.

32.
PSYCHOANALYTICAL AND INDIVIDUAL-PSYCHOLOGICAL CRIMINAL PSYCHOLOGY

Sigmund Freud (1856—1939) himself has only summarily been directly concerned with criminal problems, *vide* the small article Die Verbrecher aus Schuldbewusstsein in the periodical Imago 1915—16, reprinted in Gesammelte Schriften, Volume X. Authors belonging to the Freudian school have written extensively. Particularly worthy of mention are: *August Aichhorn,*

[1]) *Cf. Vilfredo Pareto's* view, according to which the non logical acts in the life of mankind have a large preponderance over the logical acts, and, therefore, appeal to feelings is more effective than appeal to reason.

Verwahrloste Jugend, Wiener Psychoanalytischer Verlag, Vienna 1925 (American edition: Wayward Youth, New York 1935); *Alexander und Staub,* Der Verbrecher und seine Richter, Vienna 1929 (American edition: The Criminal, the Judge and the Public, New York 1931). *Theodor Reik,* Geständniszwang und Strafbedürfnis, Leipzig 1925, and by the same author: Der unbekannte Mörder, *Paul Reiwald,* Die Gesellschaft und ihre Verbrecher, Zürich 1948, *Heinrich Meng et alii,* Die Prophylaxe des Verbrechens, Basel 1948, *K. R. Eissler et alii,* Searchlight on Delinquency, New York 1949; and from northern European literature *Ebbe Linde,* Brott och straff, Stockholm 1930. — Detailed accounts of the application of psychoanalytical methods as therapy to offenders in certain special cases have been written by *Harald Prytz* in NTfS 1934, pp. 1 *et seq.,* and 1942, pp. 266 *et seq.*

The salient points of psychoanalytical theory with reference to criminal acts are briefly the following:

The criminal does not differ from the general population in inherited features, but in his repression processes. Every individual is born with the mental potentialities of a criminal, namely with impulses which do not harmonise with the demands of social life. The normal individual, however, is able to repress such impulses and re-shape them into socially acceptable tendencies. The success of this repression process depends primarily on education. If the child's desires are too much checked or restrained, it may develop aggressive tendencies; *vide* further *Alexander und Staub, op. cit., John Dollard et alii,* Frustration and Aggression, New Haven 1939.

The theory assumes a special lawful connection between the conscious matter of the mind, including repressed desires, and experiences, particularly those of early childhood. The repression comprises impulses which are denounced as morally objectionable by the person's superego (ideal ego, conscience). Such impulses, however, have not been destroyed by the repression, but try to slip into consciousness again under disguised forms, more acceptable to the individual. The resulting unconscious conflict of the mind may give rise to various neurotic complexes and drive the person to acts, including crimes, of the actual motives of which he himself is ignorant, such as kleptomanic thefts, obscene exposure, homicide, etc. These acts must be viewed as substitutes (compen-

satory phenomena) or as part of a substitution process in relation to the repressed elements of consciousness. Only when the analysis lays bare the repressed complex does the behaviour receive its psychologically correct explanation, *vide* as an example of psychoanalytical interpretations the attempted homicide recounted by *Riis* in NTfS 1932, pp. 144 *et seq.*

An important facet of this doctrine is the theory that crimes are as a rule committed from an *"unconscious feeling of guilt"* with a concomitant *"unconscious need of punishment"*[1]). On the connection of this feeling of guilt with certain sexually determined psychic complexes, more particularly the Oedipus complex and the castration complex, Freud and his followers have propounded various ingenious hypotheses. In the criminological field *Reik* has amplified the idea in his book referred to above, sometimes in constructions which must be designated as mere subtleties. The alleged need of punishment has been taken as a general explanation of the frequent misfortunes of the criminals[2]), of the murderer's return to the place of perpetration[3]), of the leaving of excrements *(grumus merdae)* by thieves at the place of perpetration, etc. Very often, however, such things may be accounted for by more obvious, less theoretical reasons. And the whole theory of the unconscious need of punishment as a general criminalistic phenomenon is devoid of sufficient foundation. It seems to be based on an unjustified generalisation from certain more special neurotic cases. On such a case from Danish court practice (the Saxogade murder), *vide* the Annual Report of the Forensic Medicine Council, 1943, pp. 159 *et seq.*

On the whole, psychoanalytical theory has by no means answered the high expectations in respect of causal explanation or in respect of therapy, expressed by its advocates in the criminological field. Its psychological interpretations have proved too arbitrary

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[1]) *Freud,* Einige Charaktertypen aus der psychoanalytischen Arbeit, 1915, *cf. Alexander und Staub* op. cit., p. 67, who mentions "Verbrecher aus Schuldbewusstsein" as a peculiar neurotic character type, marked by an overscrupulous conscience, *vide* example in *op. cit.,* pp. 90 *et seq.*

[2]) *Vide,* further *Wulffen, op. cit.,* pp. 224 *et seq.,* 243 *et seq.,* concerning remarks and acts sprung from an involuntary consciousness of guilt — a famous example is to be found in Schiller's Kraniche des Ibykus — and securing of the proof through the criminal's own conduct.

[3]) The phenomenon has been psychologically dealt with in Dostojewski's Raskolnikof. No empirical checking of the occurrence and motivation of the fact is found in criminological literature.

and subjective, and its attempts largely to explain criminal acts as originating in isolated psychic processes with no close connection with biological and social factors must be rejected as untenable.

The individual-psychological theory of criminality of *Alfred Adler* (1870—1937) and his school, differs from that of Freud in not tracing criminality to unconscious motivations in connection with sexually coloured complexes, but in considering the crime as an overcompensation for a deep feeling of inferiority, often the result of the distrust or neglect of the child by the parents. A single impulse, then, may release criminal acts (theft, arson, etc.). — *G. Bohne* has in Deutsche Juristenzeitung 1928, pp. 1502 *et seq.*, tried to apply Adler's principles in illustrating the social-cultural causes of criminality: modern community life represses the individual by making him a cog in the machinery of industry; the individual seeks compensation in acts by which he achieves prestige or at least notice (recounted from *Landecker* in Journal of Criminal Law and Criminology, XXXI, 1941, pp. 566 *et seq.*).

On *Adler*'s psychology in general *vide* in particular his work Menschenkenntniss, Leipzig 1929.

Mention must also be made of one of the most recent criminopsychological works, namely *D. H. Stott*'s Delinquency and Human Nature, Dunfermline, Fife, 1950. The author, who is no exponent of any orthodox psychoanalytical or individual-psychological school, makes a thorough psychological analysis of 102 young offenders and neglected children. He describes an essential mental reaction, of significance to criminal development, as "Avoidance", a term corresponding more or less to the "repression" of the psychoanalytical theory: a painful, unpleasant thought or memory is unconsciously avoided, dismissed from the mind, but the fear attending the thought remains present under the surface; the criminal doings, more particularly persistent burglaries, are considered by the author as attempts to escape from the state of fear by filling the mind with excitement, etc. Other important reactions are defined by the author as *Withdrawal-Reaction* and *Demonstrative Reaction:* under the influence of adverse factors in the home, in particular the fear of losing his parents or the feeling of not being wanted, the child tries to withdraw from social intercourse or wants to convince himself of the loyalty of his parents or demonstratively overcome his feeling of inferiority.

PART III:

THE SOCIOLOGICAL BACKGROUND OF CRIMINALITY

GENERAL SOCIOLOGICAL FACTORS

That there exists a correlation between the general social, politico-economic and cultural structure of the larger or smaller community and the amount of crime within this community, is beyond all question. Clearly, then, the amount of crime in any community is the negative counterpart of the community's accepted norms of behaviour which in turn are dependent on the organisation and culture of the community.

A closer review of this correlation may be made from different angles. In the following chapter some of the major problems will be set out.

33.
COMMUNITIES WITH HIGH AND LOW CRIME RATES

In recent American criminal sociology consideration has been given to the features characterising communities with high and with low rates of crime respectively[1]). The method of approach in these investigations is first to find social groupings within which punishable acts occur only exceptionally and then to compare them with, say, modern urban communities with a high crime rate. Examples of communities where crime is said to be a rare phenomenon are: a number of American tribes of Red Indians, former Chinese communities, modern European village communi-

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1) *Walter C. Reckless,* Criminal Behavior, New York 1940, pp. 26 *et seq.*

ties, including Swiss municipalities, the Danish parish, German villages, Irish rural areas; further, religious communities with a highly developed discipline, for example the Jewish Ghetto and the Puritan colony in Massachusetts; the Boers in South Africa and pure negro communities in the United States. To this enumeration may be added various primitive peoples investigated by Northern European investigators[1]).

Reckless cites the following features as characteristic of these communities: relative isolation, homogeneity of race and culture, no or little differentiation in classes and social grouping, simplicity of behaviour systems and a high degree of group control of the members of the community. In comparisons with modern cultural communities with a high crime rate, the determining difference is found to be *"a sociological factor of stability"*. The more stable the social order, the less the criminality.

Sutherland's theory of "social disorganisation" points the same way[2]). The primitive rural community with little criminality is characterised by steady, consistent environmental factors. As opposed thereto the modern community is dominated by *conflicts:* the former primary factors of control (the family, etc.) and the homogeneous environment disappear; contacts with the outside world grow, become more frequent and more impersonal; individualism, which is useful as a negative, revolutionary factor, but not as a positive social factor, replaces collectivism.

Thorsten Sellin's[3]) views concerning the correlation between *cultural conflicts* and criminality are important here. Among the conduct norms governing the behaviour of the individual are many norms other than those of the criminal law. They emanate from institutions like the family and the church, from associates,

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[1]) *Fridtjof Nansen,* Eskimoleben, Leipzig 1903; *Erik Solem,* Lappiske retsstudier, Oslo 1933; *Verner Goldschmidt,* Kriminalitet i Thule, NTfK 1950, pp. 12 *et seq.*

[2]) *Sutherland,* Principles of Criminology, New York 1947, pp. 69 *et seq.*

[3]) *Thorsten Sellin,* Culture Conflict and Crime, New York 1938.

etc. and from the actual attitude of the community to individuals through ridicule, estrangement and ostracism, etc., and the risk of criminality is proportional to the degree of conflicts between these conduct norms and those of the Criminal Law. If the menace of the Criminal Law is not combined with a feeling of "group resistance" against the act in question by the potential offender, the menace is of no effect. The norms of the Criminal Law may form an element in the consciousness of the individual, but if, in addition, he has adopted a conflicting conduct norm from some group or other, the act is not felt as meeting with a complete group resistance, but only with a reduced group resistance. It is obvious that this situation most often occurs in communities with a strongly differentiated public feeling.

In judging the extent of criminality in primitive communities, one should be very chary of drawing conclusions from the extent of the enforcement of laws. As pointed out by *Verner Goldschmidt, loc. cit.,* the frequency and intensity of the enforcement are influenced by the fact that the enforcement, to a greater extent than the violation itself, may contribute to weaken the solidarity between the members of the community.

As regards primitive communities with little criminality, reference may also be made to the exposition by *A. W. Bonger,* Criminality and Economic Conditions, Boston 1916, pp. 381 *et seq.*. Bonger traces the cause to economic factors alone, which in such communities favour the development of altruistic conduct, while the capitalistic system appeals to egoism.

Ethnology previously upheld the view that savage people's obedience to law or custom was due to an automatic and unconditional submission to tradition, but *Bronislaw Malinowski,* on the basis of his studies of the inhabitants of the Trobriand Islands in Melanesia, has demonstrated that the matter is not as simple as that; the lawabidingness is not automatic, nor unconditional; granted that group solidarity is strong, personal interest may none the less make itself felt in opposition to it, *vide* further the author, Crime and Custom in Savage Society, London 1926 (Third Impression 1940).

34.
THE POLITICAL SYSTEM

Every human being is born into a "community", the structure of which determines his conduct, and the social norms of which control and shape his innate activity. Within the community there are different social groups. Among these groups are[1]) "the group of officials", *i. e.* the group of persons enforcing and maintaining the rules of law, and "the offenders' group", *i. e.* the group against which the officials' group is reacting. A third group is the law-abiding citizens. In evaluating the function of punishment, account must be taken of the way in which the officals' group has come into existence. In primitive peoples there are two main types: the *organically* developed group, for example the assembly of elders, totem-groups, etc. and, on the other hand, the *conquerors' group* who compel the conquered people to obedience and are gradually merged in the community. In communities where the officials' group is of this latter type, the population become resigned to the orders of the conqueror, but their daily life is determined by the old habits and traditions. There is a gulf here between punishment and development of morals or, as *Segerstedt* says, "the moral-developing effect is associated with the development of the different social groups".

Transferred to the conditions of modern cultural communities this view provides a perspective of the different conditions of criminality in democratic and dictatorship communities. In *authoritarian* states where the political and economic system does not command the positive acceptance of the population, great importance must be attached to the activities of the police and a rigid prosecution; free development of public feeling must be actively suppressed[2]). Such systems must of necessity lead to a

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[1]) *Torgny T:son Segerstedt,* Straffverkställighet och allmänprevention, Sv. J. T. 1946, pp. 491 *et seq.*

[2]) *Vide H. F. T. Rhodes,* The Criminal in Society, London 1939, pp. 206 *et seq.*

wide field of behaviour that is considered criminal. Besides, drastic punitory sanctions are known to contribute to make the crimes, which happen all the same, more violent in character, which of course is true also of the political counter-movements stamped as criminal. The danger of corruption, too, increases in communities with governing bodies that may not be criticised. The rigorous, indiscriminate application of punishment characteristic of dictatorship may, on the other hand, coupled with an inflated policeforce, have a deterrent effect, at least for at time, on ordinary criminality or on certain forms of it. The eventual outcome, however, is a coarsening of the minds both of those punished and of those exercising the functions of the police and the administration of justice.

In *democratic* communities[1]), where the people exert a real influence on the exercise of the public authority and where intellectual freedom and public security are guaranteed, there is a far greater possibility, irrespective of the conduct norms referred to above, of accordance between the penal norms of legislation and the forms of the administration of justice, and the general sense of justice and conception of morality. Consequently, a far greater possibility exists of an effective "group resistance" against criminal behaviour than pertains in dictatorship States. The possibility cannot be ignored, however, that a long-standing, one-track propaganda campaign, combined with the one-sided education of children and young persons, may instil a community of attitude or "outlook on life" in the population of an authoritarian State in line with the intentions of the rulers and, if so, a strong bulwark will have been established against behaviour at variance with the norms.

Otherwise, no general statements can be made concerning the correlation between democratic government and criminality, *inter alia* because the democratic economic systems and cultural condi-

[1]) Vide *Alf Ross,* Hvorfor Demokrati?, Copenhagen 1946, pp. 163, *et seq.*

tions have an almost unlimited range of variations with corresponding differences in criminality.

In the work by *H. F. T. Rhodes* referred to above, pp. 226 *et seq.*, the author demonstrates *typical correlations between criminality and democracy*. He considers it characteristic of democracy (with a free economic system) that it creates a relatively small group of criminals who commit large-scale offences against property, that criminality attains a higher technical development, that crimes requiring a higher degree of skill become prevalent, while murders and crimes of violence drop off and that the determining factor in criminality more and more becomes avarice and covetousness. However, such tendencies, if capable of proof at all, may be accounted for by general technical and cultural development and economic conditions, irrespective of the democratic type of government.

As regards the *socialistic theory of crime* according to which criminality primarily depends on the economic production system and will fall away in the socialistic community, reference is made to the discussion below.

ECONOMIC FACTORS

35.
THE ECONOMIC SYSTEM

If, as the Marxian theory claims, it were correct that criminality is simply a product of an objectionable economic system, more particularly of the capitalistic system, criminology's sole task would be to demonstrate the actual relationship between the economic structure of society and crime, and penal policy might be simplified to a demand for the introduction of the socialist system. Against the contention that the economic system is exclusively or predominantly responsible for criminality there are entirely conflicting views which, in their extreme forms, deny that general economic factors have any relevancy to criminality. These extremes must be considered as no better than postulates.

An adequate empirical basis for a comparative investigation of

the importance of different economic structures in relation to criminality has still to be provided. So far, all investigations of the importance of economic factors have originated in capitalist societies, and thus do not illustrate the importance of radical structural differences to criminality, but only its relation to economic fluctuations and to the distribution of economic amenities in communities of very much the same structure.

As to the historical development of social and socialist criminology, reference may be made to *W. A. Bonger,* Criminality and Economic Conditions, Boston 1916, pp. 26 *et seq.* Among the pioneers should be mentioned *Thomas More,* (1478—1535) and from more recent times *William Godwin, Charles Hall, Robert Owen, Charles Fourier; Karl Marx, F. Turati, N. Colajanni; A. Bebel,* and *P. Lafargue.*

The most important scientific attempt to interpret criminality as the product of a particular economic system, namely the capitalist system of free competition and class struggle, is given in *W. A. Bonger*'s work referred to above (French edition): Criminalité et conditions économiques, La Haye 1905. According to Bonger this system is not only the basic cause of crimes against property but also has a crimogenic effect, by appealing to egoism, on other types of crime.

The Criminal Law of the *Soviet Union* accepts theoretically the same view, with an emphasis on the class struggle, as a basic theory of penal policy. The criminality that still exists after the Russian revolution is attributed, under this theory, to the lingering influences of the former community system and to the impending fight for the elimination of such influences. To this pure theory, however, are gradually added significant modifications, *inter alia* recognition of the crimogenic importance of mental abnormalities, *cf.* in this connection *Taft,* Criminology, New York 1945, pp. 132—33 with references[1]).

[1]) As regards crime and the repression of crime in the *Soviet Union,* reference may be given in particular to the following publications: *S. and B. Webb,* Soviet Communism, Vol. II, Second Edition, London 1937; *Hermann Mannheim,* Criminal Justice and Social Reconstruction, London 1946, pp. 109 *et seq.,* 137 *et seq.* and index of literature p. 275; *N. Berman,* Juvenile Delinquency under the Soviets, Journal of Criminal Law and Criminology, XXX, 1939, pp. 75 *et seq.*

This American criminological text-books give strong evidence of the criminalistically adverse effects of the modern capitalist system, in particular in its extreme forms, *vide, e. g., Sutherland,* Principles of Criminology, New York 1939, pp. 179 *et seq.* Among English commentaries may be mentioned *H. F. T. Rhodes,* The Criminal in Society, London 1939, pp. 55 *et seq.* It is stated here that while poverty and modesty were virtues during a former economic system, the ideal changed with the economic development of the nineteenth century. The new economic system with mass production in free competition creates consumption, through advertising, modern salesmanship, etc., thus stimulating covetousness; simultaneously, a business morality preparing the soil for the thriving of frauds has developed.

36.
PRICES, MARKET FLUCTUATIONS, CRISES

Turning to the investigations concerned with relationships between general economic factors and criminality, it is widely held that there is a *direct relation between economic conditions and criminality,* in particular in the case of crimes against property and larceny. In earlier criminology this view derived from a series of comparative statistical investigations of *grain prices* and the *crime rate.* These investigations showed that any increase in bread prices was accompanied by a corresponding proportionate increase in the number of thefts.

Particularly well-known is *Georg von Mayr*'s comparison between grain prices and thefts in Bavaria during the years 1835—61, *vide* on this and other earlier investigations *Aschaffenburg,* Das Verbrechen, 3. Aufl., Heidelberg 1933, pp. 118 *et seq.* — von Mayr concluded from his figures that "so ziemlich jeder Sechser, um den das Getreide im Preise gestiegen ist, auf je 100,000 Einwohner einen Diebstahl mehr hervorgerufen hat" (Die Gesetzmässigkeit im Gesellschaftsleben, München 1877, p. 346), but himself points out elsewhere that the causal relationship is more complicated than this statement suggests.

Noteworthy among the northern European investigations of the same nature is that instituted by the Swedish Government in

1871 on the relationship between the price of rye and the amount of larceny during the years 1830—68, which up to the 1850's showed a direct correlation, *vide Torsten Eriksson,* Brott och samhälle, Stockholm 1939, pp. 118 f. As far as Finland is concerned, the statistics published by *Antti Tulenheimo* in 1913 also showed congruity between thefts and fluctuations in grain prices during the years 1878—98, *vide Veli Verkko* in NTfS 1946, pp. 199 *et seq.* In Denmark, too, an investigation of the relationship of the price of rye to larceny during the years 1840—65 has according to *Karl O. Christiansen* shown a certain, if not as pronounced a correlation, *vide* Politiet, 8th Volume, 1946, p. 85.

Most of these investigations showing this accordance relate to the conditions about the middle of the last century. In later and recent years the correlation fails. The original congruity and its absence later have been accounted for by a reference to the former importance of bread and, accordingly, of bread prices in the nutrition and economy of the working population. A rise in grain prices was tantamount to a rise in the price of bread and if the latter was not balanced by a rise of wages, it automatically resulted in an emergency situation directly productive of crimes against property. The more complicated food situation, income and working conditions, social welfare, etc., of recent times reduced the importance of the grain price as an index of economic conditions and their correlation with criminality.

This view presupposes that the existence, under more simple economic conditions of society, of a correlation between fluctuations in the cost of living and thefts, as assumed by the criminal statisticians, has been established. It should be emphasised, however, that this view is not unchallenged. Thus Lombroso mentions in his work on crime and its causes a number of French and Italian investigations showing no connection between crime and the price of bread, and points out that the calculation must take account of the number of hours required to obtain the equivalent of one kilo of bread; but even if one disregards the mere standard of price and examines the economically relevant factors, it should be taken into account that the money made available by not having to be spent on bread is often spent on excessive drinking, which, in turn, results in criminality (Crime, Its Causes and Remedies, London 1911, pp. 77 *et seq.)*

Associated with the investigations of the importance of grain prices are some earlier investigations of the importance of *famine*

and similar crises in relation to criminality. A particularly well-known work in this field is the book by the Belgian statistician *Edouard Ducpétiaux,* Mémoire sur le Pauperisme dans les Flandres, Bruxelles 1850, dealing with the great increase of criminality that took place in Belgium in connection with the industrial and agricultural crisis during the years 1845—48. Similar investigations have been conducted by *A. von Oettingen, vide* his principal work, Die Moral-Statistik in ihrer Bedeutung für eine christliche Socialethik, 1. Auflage, Erlangen 1869—73.

The statistical investigations of the latter part of the 19th century and of this century have been seen to show no general correlation between grain prices and criminality. On the other hand, *Woitinsky,* ZfS 1929, pp. 647 *et seq.,* has tried to demonstrate a constant close correlation (in Germany) right up to the first world war, having separated the movements for each year from the general trend over a range of years by the application of various statistical corrections, *vide Exner*'s criticism, Kriminalbiologie, Hamburg 1939, pp. 95 f.

A special correlation between grain prices and criminality exists in the statistically proved fact, that the number of *fraudulent arsons* in respect of landed property rises with a fall in prices and resulting difficulties of sale. The explanation lies in the economic conditions creating a special interest in obtaining the amount of fire insurance for premises and crops.

In recent years investigators have realised that more complex index factors must be taken into account if they hope to demonstrate relevant correlations between general economic conditions and criminality.

From observing fluctuations in grain and other food prices the emphasis has been shifted to the total price index of the articles normally included in the budget of the man in the street; and the necessity of collating price with income fluctuations in order to get at the movements of *real wages* has been recognised. As far as this necessity is concerned, several investigations have demonstrated a correlation with larceny, since a rise in real wages has for some time been accompanied by a fall in the number of thefts. There is no question, however, of a complete

correlation of details, such as temporary reductions of real wages, *inter alia,* not having corresponded with rises in the number of thefts. For real wages, when they have reached a certain level, may be reduced without the standard of living falling to the level of downright distress with criminality as a way of escape.

Nor are real wages, however, an adequate index. For in periods of crisis with a high rate of unemployment and other disturbances of the national economy, the real wages of the workers are no longer an index of economic conditions in general. *Market fluctuations* must, therefore, be included in the investigation. A number of investigations have shown that occasional thieving by men becomes more frequent in years of crisis, with a special correlation between unemployment and crime.

In times of large *currency fluctuations,* too, more particularly *inflation periods,* crimes against property have considerably increased, especially thefts and receiving real goods, the value of which increases with the declining purchasing power of money.

These economic conditions, of importance in relation to crime, should be considered as but points of departure for a closer study. Numerous subtler methods of investigation exist, including a far wider differentiation of the factors involved in price indexes, market fluctuations, unemployment, etc., *vide* below. Besides, the discussion has only been on the correlation with crimes against property, more particularly larceny. If other crimes are included, the picture becomes much more complex, a number of offences appearing to fall off as general economic conditions improve.

Even when existing investigations have revealed a distinct correlation between an improvement of the standard of living and a fall in the number of crimes and between slumps and a rise of the crime rate, other statistical investigations exist which challenge the existence of such a correlation. And were it not challenged, it is questionable whether a causal connection with poverty and other economic difficulties may be the principal cause

of criminality, or whether both factors, criminality and economic difficulties, are not parallel effects of one or several basic factors.

Many books have been written on the importance of *fluctuations of prices* and real wages. Complicated economic indexes appear in them, such as that used by *William Ogburn* and *Dorothy Swaine Thomas,* in their work on criminality in New York during the years 1870—1920. They related criminality to an index made up of nine factors, including food prices, bankruptcies, coal production, iron production, railroad freight ton mileage, banking, employment conditions, imports, etc.[1]), and *Dorothy Swaine Thomas,* in an extended investigation relating to English conditions, applied an index composed of a price index of all materials, the total value of British exports of produce, iron production, coal production, freight railroad traffic receipts, bankclearings and unemployment; at the same time criminality was split up into a great number of subgroups[2]).

If investigations are based on such combined indexes, including unemployment, etc., the problem has shifted from the influence of price fluctuations to that of more extensive market fluctuations in relation to crime, *cf.* on the findings of such investigations immediately below.

Mention may be made as well of a treatise by *Albert H. Hobbs,* Relationship between Criminality and Economic Conditions in Journ. of Criminal Law and Criminology XXXIV, 1943, pp. 5 *et seq.* Hobbs describes an investigation of more than 10,000 criminal cases tried in Philadelphia in 1791—1810, as compared with the fluctuations in economic conditions judged by wholesale prices of agricultural products and industrial articles of consumption, and the convicted persons are divided into offenders against property, the person and public order. The conclusion is that the relation between different types of crime and economic conditions has proved, if anything, to be of an accidental nature. Whether the offenders were convicted at one or the other court seems to have been more significant than changes in eco-

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[1]) The Influence of the Business Cycle on Certain Social Conditions, Journal of the American Statistical Association 1922.

[2]) *Dorothy Swaine Thomas,* Social Aspects of the Business Cycle, New York 1927. — An account of this and a number of other works is to be found in *Thorsten Sellin,* Research Memorandum on Crime in the Depression, New York 1937.

nomic conditions. The choice of different possible indexes on both sides radically influenced the relationship.

The most interesting of the more recent investigations relate to the influence of *alternating periods of prosperity and depression* (market fluctuations, crises, business cycles) on crime. Here should be mentioned in particular the work by *Dorothy Swaine Thomas,* referred to above, Social Aspects of the Business Cycle, N. Y. 1925, *Thorsten Sellin,* Crime in the Depression, N. Y. 1937, *Emma A. Winslow,* Relationships between Employment and Crime Fluctuations as Shown by Massachusetts Statistics, Report on the Causes of Crime I, 1931, pp. 173—333, *vide* also *Bruno Gleitze,* Die Konjunkturkriminalität, Stuttgart u. Berlin 1941. — As regards war and war profits, reference may be made to what is stated below on pages 298 *et seq.*

It appears from these works that a distinction should be made between 1) *crime favoured by crises,* 2) *crime favoured by prosperity*[1]), 3) *crime unaffected by economic fluctuations.*

The more general results of the investigations would seem to be that crimes against property, more particularly burglary, show an upward tendency in periods of depression, whereas crimes of violence and other alcoholically determined crimes have an upward tendency in periods of improving trade (leaving more money for the consumption of alcohol). More detailed analyses, where crimes against property, etc., are split up into several subgroups and where allowance is made for age distribution, show divergent tendencies, *vide, e. g., Gleitze, op. cit.,* according to which embezzlements and frauds in periods of depression, though more frequent in the older age groups, decrease in the age groups under 30 years.

In this connection reference may also be made to *Herbert A. Bloch,* Economic Depression as a Factor in Rural Crime, JCC, XL, 1949, pp. 458 *et seq.,* who has examined the long-term effects of the great depression in 1929 within a distinctly rural

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[1]) By way of example it may be mentioned that in *Iceland* (Reykjavik) the crime rate and more particularly crimes of violence, rose perceptibly during and after the American occupation in the years 1940 *et seq.,* accompanied as it was by economic prosperity. (Number of convictions in 1940: 27, in 1947 to 1949 on an average 80); as far as the total crime rate is concerned, the increase during the said period amounts to well over 25 per cent. (these data have been given by *Valdimar Stéfansson,* Criminal Judge, Reykjavik).

As regards the increase in the crime rate in *Sweden* in periods of prosperity, *vide G. Fredriksson* in NKT 1948, pp. 117 *et seq.*

area, the socio-economic and cultural conditions of which have remained relatively stable and where, consequently, the factor of depression is capable of isolation. The investigation shows an increased crime rate among "white-collar" youths aged 20—30 of the lower middleclass in the small commercial centres within the district; in respect of this group, "the threshold of temptation" has been lowered in direct proportion to the impact of economic hardship, *cf.* also *von Hentig,* Crime: Causes and Conditions, 1947, pp. 223 *et seq.*

Among the many factors directly or indirectly influencing criminality through market fluctuations, in particular in periods of crises, *unemployment* seems to be one of the most important. This is the conclusion *Emma A. Winslow* reaches in her intensive and statistically refined work referred to above. The same result is reached by extensive American investigations of prisoners, *cf. among others Mary van Kleeck,* Work and Law Observance in the Histories of Men in the Sing-Sing Prison, Report on the Causes of Crime I, 1931, pp. 191 *et seq.;* 18 different economic factors stand out from the files, including too early employment, placing in a blind-alley occupation, intermittent seasonal unemployment, ordinary unemployment and constant fear of it, the mobility of the occupation from place to place, changes in conditions of wages making it impossible to prepare a budget, lack of holidays, and concluding in unemployment ranking very high among these factors. — In considering the crimogenic importance of unemployment it is a question whether the economic distress or the more indirect demoralisation brought about by unemployment is the more potent factor in the causation of crime. Swedish statistics for the years 1922—35 given by *Torsten Eriksson,* Brott och samhälle, Stockholm 1939, pp. 124 f., show a fall in the number of offences against property in spite of a sharp rise in unemployment in 1931—33, after the introduction of special relief measures for the benefit of the unemployed. The curve of thefts, etc., more or less followed the curve relating to the unemployed not being in receipt of assistance. This is, if anything, evidence that crimes committed in periods of unemployment are directly due to the distress. It is probable, however, that the unemployment which, owing to social welfare and other measures, does not result in immediate distress also has a deteriorating and crimogenic effect in the long run.

MENTAL FACTORS

37.

RELIGION

Efforts have been made to throw light upon the much disputed problems concerning the impact of religious factors on crime through extensive *crimino-statistical investigations.* The weakest point of these investigations is that they can take account only of external, partly unimportant characteristics of religious attitude, such as a particular confession, regular church attendance, etc., but not of inner religious feeling.

The European investigations in this field have chiefly been concerned with the criminality in members of different *confessions,* such as Catholics, Protestants and Jews, within the same jurisdiction. The most important investigations originate in Germany, Holland and Hungary and show that the crime rate is generally highest among the Catholics, lower among the Protestants and lowest among the members of the Mosaic religious communities. A Dutch investigation *(Bonger)* found that the rate was lower among atheists than for any of the confessions; American investigations, however, have shown results in the opposite direction[1]).

Thus no conclusions can be drawn from these investigations as to the more or less favourable influence of the different religions on the relationship of their members to the Criminal Law. The higher crime rate of the Catholics has been attributed to the confessional institution and the belief in absolution which it is said may tend to break down inhibitions against secular criminality; however, according to existing analyses, the relatively more unfavourable economic, social and cultural living conditions of Catholic populations account themselves for the higher crime rate without it being necessary to have recourse to more questionable hypotheses. As regards the lower crime rate among Jews,

[1]) *Vide* the literary references below.

reference may be made to the discussion below on page 283. In Holland the particularly favourable crime rate among those not belonging to any religious community finds its natural explanation in the relatively high social and intellectual classes to which they belong. And if in American investigations the highest conviction rate has been found among Baptists and Catholics, this should be viewed in the light of the large number of such persons having a special crime risk (negroes and recent immigrants).

The most important investigations of the relationship of confession to criminality in European literature are to be found in *Aschaffenburg,* Das Verbrechen und seine Bekämpfung, 3. Aufl., Heidelberg 1933, pp. 57 *et seq., Erwin Hacker,* Der Einfluss der Konfession auf die Kriminalität in Ungarn, Miskolc 1930, *A. W. Bonger,* Criminality and Economic Conditions, Boston 1916, *A. Feber,* De criminaliteit der Katholiken in Nederland, Roermond-Maaseik 1933. As to the American investigations, reference may be made to *Sutherland,* Principles of Criminology, New York 1947, p. 193, and *Taft,* Criminology, New York 1945, pp. 211 *et seq.*

Statistical information may be found in the following table from *Aschaffenburg,* p. 58. This table relates to the period up to 1901 when the German Government ceased to provide separate data on the Christian confessions:

For every 100,000 of population of the same confession above the minimum age of criminal responsibility were convicted:

	Catholics	Evangelical Christians	Jews
1882—1891	1153	963	784
1892—1901	1361	1112	1030

A similar proportion is found in Bonger's statistics to 126,000 criminals in Holland during the years 1901—09. The criminal figures per 100,000 population above the minimum age of criminal responsibility were here:

Catholics	Protestants	Jews	No Confession	Total Population
416	309	213	84	337

As to the incidence on the individual types of crime, the particular works should be consulted.

A number of more recent American investigators have inquired into the significance of *regular church attendance* and other external indications of a religious attitude in groups of convicted persons and prisoners. They found that those who attended church regularly succeeded on probation more frequently than those who did not, or only irregularly; compulsory church attendance, however, produced only negative reactions[1]).

When turning from statistical investigations to more discretionary judgments of the criminalistic importance of religious factors, or when abandoning formal criteria and trying to evaluate the *real powers in religious doctrine and creed,* there is ample room for conflicting opinions. They vary from the simple conviction of the believer that all crime springs from godlessness to theories according to which religiously inspired morals and concomitant ideas of guilt and punishment give rise to neuroses and criminality and are a main obstacle to the rational treatment of criminals.. Between these two extrêmes all intermediate views imaginable are represented.

From the point of view of criminology one can hardly do more, for the time being, than try to define the problem more precisely. A distinction should be made between the two questions: 1) whether the real faith of the individual tends to prevent crime, 2) whether the church communities through their doctrines and practice have tended through history and in our own age to repress crime, taking into account their teaching and moral and social activities as well as their purely religious doctrines and practice.

As regards the first question *Lombroso* and *others* have observed that many criminals have been ardent believers, adherents of primitive creeds having sought protection under their own

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[1]) Sutherland, op. cit., p. 194 with references.

Gods, and many perpetrators of the gravest crimes in modern times having invoked the assistance of God when actually committing them. Faith would therefore seem only to be an anti-crimogenic factor when associated with moral insight and feeling, on which it sets a stamp of completeness. And here it must further be presupposed that the punishable act is at variance with the morality sanctioned by the creed, otherwise the living faith may even act crimogenically (crimes of religious conviction). Finally, when faith degenerates from a living religious and moral attitude to the observance of external rituals and forms, it may break down inhibitions against crimes, which are then committed "with a rosary in one hand and the knife in the other". That hypocritic or false self-deceiving religiousness often, consciously or unconsciously, acts as a cloak and an excuse for criminal behaviour is confirmed by the many examples of high-strung, but falsely religious prisoners[1]).

Despite these and other negative factors, however, it is a fact that the *ethical norms* regularly inculcated by a religious upbringing and typically associated with genuine religious convictions create particularly strong impulses to resist criminal urges[2]). Only national and political mass movements with a well-established, overriding ethical code seem to be able to create categorical imperatives of a similar suggestive force to large populations.

Any account of the part played by the *church,* more particular-

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[1]) *Vide* on the subject *Eivind Berggrav,* Fangens sjel — og vår egen, 4th ed. Oslo 1929; *Henning Høirup,* Fangen — vort Medmenneske, Copenhagen 1939, pp. 139 *et seq.*

[2]) *Vide* in this direction *among others Gabriel Langfeldt,* Der Dieb und der Einbrecher, Oslo 1936, pp. 52 *et seq.* The author considers "the development of the ethical disposition as one of the most important anti-crimogenic factors". His offenders showed three times as often "ethically valuable reactions" (in the form of feelings of guilt, remorse, repentance) among persons brought up religiously, and the former group had generally started their criminal career at a higher age than the latter. The fact remains, however, that of the total of 42 thieves an equal number had grown up in strictly religious and in non-religious homes, and the former group showed no fewer recidivists than did the latter.

ly the Christian church, in relation to crime, would involve essential parts of the history of criminal law which are closely connected with the doctrine and practice of the church. To generalise about it would acheive nothing. Suffice it to say that the greatest crimes in the history of mankind have been committed in the name of religion and under the leadership of religious schools. However, it is equally true that the ten commandments of the Mosaic law and the Christian gospel of love are the principal ethical foundation on which the repression of crime has been based through centuries and still is.

The religious doctrine of the Church and its moral code cannot be separated in practice. Their importance lies both in the incentives they afford to ethical, social and lawful behaviour, but also in their penalisation of types of behaviour at variance with the church's moral code, in particular in the sexual field; viewed from this angle the Church has increased the number of crimes.

Of direct criminalistic importance are the activities exercised by the Church and religious institutions to-day in the *rehabilitation work for convicted persons,* in part through prison chaplains, in part through welfare measures for released prisoners. This branch of the Church's work, however, cannot be discussed in greater detail here.

38.
LITERATURE, NEWSPAPERS, FILMS

Literature[1]).

The assertion is often made that bad literature is a potent crimogenic factor, starting with the blood-and-thunder novels of the 18th century, continuing with erotic and pornographic

[1]) *Sighele,* Littérature et criminalité, Paris 1908; *Max Homburger,* Der Einfluss der Schundliteratur auf jugendliche Verbrecher und Selbstmörder, MfK 1909—10, pp. 145 *et seq.; Erwin Umhauer,* Die Bekämpfung der Schundliteratur, MfK 1910—11, pp. 585 *et seq.; Albert Hellwig,* Die Beziehungen zwischen Schundliteratur, Schundfilms und Verbrechen, Gross' Archiv für Kriminalistik, Bd. 51, 1913; *Louis le Maire,* L'importance de la littérature comme facteur crimogène, Festskrift for Helweg, Copenhagen 1946, pp. 585 *et seq.*

stories and pictures, Red Indian booklets and other penny dreadfuls, and ending with criminal and detective stories with criminals as heroes and full of blood-stained events.

Chief among the crimogenic effects ascribed to cheap literature is its harmful *sexual* influence on young persons, in particular by erotic excitation through obscene pictures; second comes the stimulation of *criminal* tendencies and the breaking down of inhibitions through attractive descriptions of criminal careers surrounded with an atmosphere of excitement and adventure, as opposed to the dull monotony of honest life. Such harmful effects are assumed to be operative in particular in young persons whose excessive reading of bad literature also prevents them from spending their leisure in healthy pursuits. A more direct crimogenic effect of such reading is that its description of a particular crime may act as a direct suggestion and that of a particular technical procedure lead to its later being put into practice by the reader.

There is no doubt that the influence of such literature may be harmful. On the other hand, it may well be exaggerated, and so-called bad literature even have wholesome secondary effects which to some extent balance its adverse influence, in particular in that it diverts criminal tendencies by converting them to and satisfying them in the land of imagination. It is generally assumed that such diversion is possible through writing, in which the individual author finds an outlet for his active impulses, and it is no long step from this to assuming a similar outlet for the reader too. It should be borne in mind as well that underlying the demand for "bad" literature is a need which is not only difficult, but sometimes dangerous to neutralise by moralising measures.

The possibility of a diverting effect, in particular of blood-and-thunder stories, is admitted *among others* by *William Healy,* The Individual Delinquent, pp. 304 *et seq.* In Danish literature the same view is held by *Karl O. Christiansen* in Politiet, 8th Volume, 1946, p. 90.

As to the risk of taking cheap literature away from young

persons, *J. Devon,* The Criminal and the Community, London 1912, p. 126, says very much to the point: "To take the boy from the book he likes and force upon him a good author because it is supposed to be more wholesome for him involves the risk of making him feel a permanent aversion to the books one has chosen for him".

It must be recognised that the cause and effect relation is also more complex than is generally assumed where young persons' reading-matter is concerned. *Hans Brix* has expressed it in the following way: "The stimulant, however, is not on the lookout for young persons, but young persons are on the lookout for the stimulant ... For lack of better, even ordinary dictionaries or the Old Testament may do".

The positive empirical information on which the criminological expositions base their general contentions of the crimogenic influence of cheap literature is very meagre. One author, *Max Homburger,* has tried to prove a statistical correlation between the circulation of more or less harmful literature and juvenile delinquency, but this demonstration is obviously untenable.

Vide further MfK 1909—10, pp. 149—53. It is asserted here that the number of young delinquents in Oberlandgerichtsbezirk Karlsruhe between 1890 and 1899 increased in step with the circulation of criminal papers, that after a decline of a few years it rose again with the appearance of the small detective novels in 1902, fell again when the more innocent Red Indian booklets became popular and subsequently rose after the appearance of cheap literature in 1905. However, both the range of years and the criminal figures underlying the investigation are far too small to permit any conclusion, and the possible influence of other relevant factors has not been eliminated.

Attempts to determine the actual importance of this criminal factor otherwise than by statistics are but rare. In Danish literature *Louis le Maire* has attempted to trace the importance, if any, of literary impulses, first in relation to offenders whose cases have been submitted to the Forensic Medicine Council during a five-year period, and secondly in relation to the total of over

3,000 sexual offenders during the ten-year period 1929—39, in only two of whose cases was the question of literary influence even considered. This small figure, may, of course, be due to insufficient consideration of the problem, but it is very unlikely that the question would not have made itself more felt if, in point of fact, it had actually played the part often ascribed to it. Le Maire states a few examples of the first type of cases, where a direct correlation is supposed to have existed between reading and crime (arson, theft by the application of a special technique, sexual anomalies), but arrives in general at the result that the direct importance of literature as a crimogenic factor is extremely small.

Vide, further, *Lous le Maire* in Festskrift for Helweg, pp. 585 *et seq.* — The author mentions here a peculiar case of correlation between literary production and crime which occurred in 1943 (murder in accordance with a short story formerly written by the perpetrator, *vide* the Annual Report of the Forensic Medicine Council, 1943, pp. 159 *et seq.*).

Pornographic literature, more especially in its easily accessible forms of illustrated papers, is a source of special danger to individuals predisposed to sexual offences, a danger which has been stressed in an (unpublished) report prepared by the Forensic Medicine Council, *vide* le Maire, *op. cit.*, p. 592[1]).

Newspapers[2]).

These comments on literature and crime are generally also true of newspapers. General contentions are often made about

[1]) In this connection may by mentioned as well certain of the now general *comic strips* the harmful influence of which has recently been strongly emphasised, *vide* further *Lancelot Hogben,* From Cave Paintings to Comic Strips, London 1949. In America, *Dr. Frederic Wertham,* among others, has stressed the directly crimogenic importance of this literature. The vast majority of (normal) children and young persons, however, do not carry such patterns into criminal action, as experience shows.

[2]) *F. Fenton,* The Influence of Newspaper Presentation upon the Growth of Crime. Thesis. University of Chicago Press, 1911; *Stephan Hurwitz,* Lovgivningens Stilling til Pressens Behandling af Retssager. Copenhagen 1937 (with literary references).

the crimogenic influence of the daily press, more particularly of the sensational papers: the great attention paid by the press to large-scale criminals flatters their vanity and stimulates them in their criminal careers, at the same time attracting fresh recruits to their ranks; the press reveals the investigation methods of the police, explains new criminal tricks, etc.; its too detailed descriptions of murders and sexual crimes strike root in unsettled minds, etc.) Moreover, it is a widespread view that the influence is cumulative, the papers devoting an ever-increasing space to accounts of criminalistic affairs. On the other hand, the wholesome, indeed indispensable contribution made by the press to the repression of crime has often been pointed out, first and foremost through the deterrent effect of the prospects of public mention of prosecutions, but also in many other ways, for example by direct collaboration with the police and other authorities in the efforts to clear up crimes, apprehend criminals, warn the public, etc.

Concerning this discussion, reference may be made to my survey in "Lovgivningens Stilling til Pressens Behandling af Retssager", pp. 9 *et seq.*, in which the contention that accounts of crimes have in recent years taken up more space than earlier has been closely examined, and proved to be untenable as far as the United States of America are concerned, where the criticism against the police and court reporting has been particularly violent.

All told, a word of admonition should be said against passing one-sided judgments, as regards the relationship between newspapers and crime. There is no doubt that advantages and drawbacks may be observed along with the main functions they exercise. The modern press seems to have no very great importance as a direct factor in the causation of crime.

William Healy, The Individual Delinquent, London 1915, pp. 301 *et seq.*, states that in no single case of a young delinquent

was the reading of newspapers found by him to be a strong cause of criminality.

Films[1]).

Side by side with cheap literature and sensationel papers, films have been held responsible for the recent growth of criminality, more particularly of juvenile delinquency. And in many quarters they have been considered the most dangerous of these three factors. It is quite true that owing to the vividness of visual and aural impressions and the suggestive manner in which they are communicated, a film performance is particularly liable to recur in consciousness with the greatest force and to stir the imagination. This danger, on the other hand, is neutralised by the censorship in the case of public film performance.

It is chiefly the same harmful effects as those stated above in the case of literature and newspapers which are attributed to the pictures: their presentations of criminals and crimes are contagious, sometimes serving as a direct example and pattern, more often leading the imagination indirectly into criminal paths, so that in the face of this suggestion it is immaterial that the criminal is duly punished in the end. Further, the pictures create a craving in young persons which often leads them to steal in order to get money for the ticket. Finally, the darkness and atmosphere of the cinema hall favour some bad practices, in part of a punishable nature.

Subjective and no doubt exaggerated views have been advanced concerning the harmful effects of the pictures, but positive knowledge of the existence of such effects, as a rule, has been very scanty[2]). Such views have been based on the state-

[1]) *Albert Hellwig,* Kinematograph und Verbrechen, MfK 1912—13, pp. 711 *et seq..; David Lund,* Filmens suggestiva inflytande på barn och ungdom, NTfS 1922, pp. 99 *et seq.; Cyril Burt,* The Young Delinquent, London 1945, pp. 143 *et seq.*

[2]) *Vide,* however, the case recounted by *Ragnar Kolstad* in NTfK 1950, p. 224 *et seq.,* where it must be considered as proved that definite scenes of a film (the Norwegian film "Gategutter"), showing how boys plundered

ments of a few accused persons that they have acted under the influence of a film, but such statements have not justified general conclusions and, indeed have not always been true. *Alb. Hellwig* thus recounts a case where a maid had attempted to poison her master and mistress, and where she asserted that she had acted under the influence of a film called "The poisoned Dinner"; it turned out that such a film did not exist at all (MfK 1912/13, pp. 711 *et seq.); cf.* also *Cyril Burt,* The Young Delinquent, p. 143, concerning the inclination of young accused persons to put the blame on the pictures.

Further, reports of intensive studies of the pictures as a factor in the causation of crime are now available, *inter alia* in *Burt*'s work referred to above; their conclusion is negative, as regards the importance of the pictures as a direct pattern or cause of criminality.

Vide, further, *Burt, op. cit.,* pp. 143—50, according to which the direct reproduction of grave film crimes is extremely rare. The author has seen four or five examples of crimes directly inspired by the pictures, but these were performed by mentally retarded or feebleminded persons and it was the method rather than the criminal aim itself that was borrowed from the pictures; the impulse already existed.

Nor does Burt attach much weight to the thefts which take place in order to get money for tickets. As a rule, the money thefts and the craving for the pictures are manifestations of the same deeper cause: the child's need of diversions in his humdrum life. Only where there is an abnormal craving for the pictures does Burt count the attraction of the cinema as a direct incentive to the theft.

Burt attaches a greater importance to the more general and elusive influence of the pictures, including the misrepresentation

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fruit vans, have been a direct cause of boys' thefts in some cases. — The author points out that the suggestive power of these scenes has been intensified by the fact that the leading characters in the film were boys of their own age and that the scene was laid in a familiar environment. The harmful effect of the film, however, is characterised as negligible, considering that it has been seen by thousands of boys who have not reacted in an anti-social way.

of real life which generally characterises them and their unwholesome sexual atmosphere which may give rise to mental conflicts in young persons. However, compared with the countless pictures which are produced and released, the resulting offences are almost negligible. And the victims are almost entirely those who are already predisposed to anti-social conduct (p. 150).

Vide now also *D. H. Stott,* Delinquency and Human Nature, Dunfermline, Fife, 1950, pp. 363 f.: "It has become abundantly evident that the causes of delinquency go very much deeper than exposure to incidental influences such as the cinema". In his very thorough investigation, the author has found no case of a boy or a girl imitating a bad pattern in a film. The most that can be said of gangster films is that they may determine the *form* of the delinquent break-down that would have taken place anyway.

Finally it should be borne in mind here, as well as in the case of other cultural factors of questionable value, that the negative bearings may be balanced, in whole or in part, by positive ones. The possibilities of diversion discussed above in connection with bad literature are presumably particularly true of the pictures. First, the cinema experiences may operate as a substitute for criminal acts, thus neutralising tendencies which otherwise would find a harmful outlet. Secondly, the interest in pictures may drag young persons from forms of idleness, hooliganism and drinking which present greater risks of criminality. Thirdly, many pictures offer wholesome propaganda *against* criminal behaviour.

That the pictures may operate, and should be used, as a means to relieve anti-social impulses is admitted among others by *Georg Cohn* in the publication "Kan Krig forhindres?" Copenhagen 1945, p. 161. — *Burt, op. cit.,* p. 150, likewise stresses the importance of the cinema as a substitute for more harmful forms of diversion. *Cf. Stott, op. cit.,* p. 364, who asserts that persons of the avoidance type (repression type) may find a certain substitute excitement and escapism in the cinema, and that the emotionally withdrawn may receive a certain emotional education by seeing films. "The emotionality of the cinema may, in

effect, perform a function of catharsis by loosening the inhibition of fellow-feeling and dissolving the resentments which come of affectional deprivation".

PHYSICAL FACTORS

39.

CLIMATIC CONDITIONS, ETC.

Ever since the first days of moral and criminal statistics investigators have been concerned with the influence, if any, of physical conditions, in particular of the climate and the seasons, on criminality. Under different designations, (such as natural, cosmic and telluric factors) conditions of weather, temperature, light and atmosphere, radiations from the earth, and periodical fluctuations in the human organism have all been mentioned as direct causes of human behaviour anomalies and, in particular, of criminality[1]).

More recent investigators have generally recognised the fallacy of assuming a direct causation here, as only a certain, more remote correlation may obtain between criminality as a mass phenomenon and physical factors.

At the outset, consideration was chiefly given to *climatic conditions. Guerry, Quetelet* and *von Oettingen* made statistical investigations of the crime rates in the northern, central and southern zones of France and found that crimes against the person were relatively most frequent in the southern zone, and crimes against property most infrequent here. Later works by *Lombroso* and *Kurella* have found the same trend in the case of crimes against the person according to the different degrees of latitude, with a higher figure in the warmer climate. A number of other investigations covering also non-European countries have, however, found crimes of violence and other active crimes to be fewer in particularly hot, moist climates.

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[1]) *Vide* further *Ernst Roesner,* HdK I, Berlin 1933, pp. 688 *et seq.* with detailed literary references.

Comparative investigations of climate and criminality have played no great part in more recent criminology. As in all large-scale international criminal comparisons, the statistical information on which they are based is of questionable value, and they themselves are open to a variety of interpretations.

The theory of *temperature* advanced by Ferri and set out in his treatise Das Verbrechen in seiner Abhängigkeit von dem jährlichen Temperaturwechsel, ZfS, 1882, pp. 11 *et seq.*, once played a special rôle. According to this theory a high air temperature should involve a smaller consumption of physiological energy, and thus release a surplus of energy which finds its outlet, *inter alia,* in crimes of violence. The untenability of the theory is generally recognised.

On the part of Denmark a climatic factor other than the temperature, *viz.* the *light,* has been pointed out as an important factor in the causation of crime, *cf.* a number of treatises by *Poul Gædeken* (Archives d'anthropologie criminelle, Vol. 24, 1909, Zeitschrift für Psychotherapie und medizinische Psychologie, Bd. 3, 1911). It is assumed here from a number of observations that the influence of light rays on the mood largely explains certain periodical fluctuations in crimes of violence, more particularly sexual crimes, as well as similar fluctuations in the number of conceptions and suicides, though various cultural non-climatic conditions also make themselves felt, *cf.* below on the seasonal variations of crime.

A different hypothesis is advanced by *Kinberg,* Basic Problems of Criminology, Copenhagen 1935, p. 320. He mentions here that a sea climate and strong heat stimulate secretion from the thyroid gland, which would accord with the fact that Southern Italians and Spaniards are inclined to primitive and barbaric crimes of passion, while Englishmen, who are commonly hypothyroid only rarely commit such crimes. Ferri's hypothesis, according to which murder and rape are connected with high temperature, would be explained by this endocrinological observation. — It is not apparent, however, how this hypothesis can be reconciled with the fact that crimes of violence decrease in a tropical climate, *vide Roesner, op. cit.,* p. 691, *cf. Gædeken,* Tilskueren 1914, p. 106, whose comparative homicide statistics from Sibiria

and Caucasia show that the southern latitudes are not very much ahead of the northern, as regards the frequency of murder and homicide.

TIME AND PLACE

40.

THE INCIDENCE OF CRIME ACCORDING TO THE SEASON, DAY OF THE WEEK, ETC.

Seasonal Variations.[1])

In a number of countries criminal statistics reveal certain homogeneous *seasonal variations* or *time rhythms* in respect of particular types of crime. Sexual crimes, assaults and other crimes against the person are shown to increase during the spring, culminate in the summer months, and reach their minimum in the winter, while, conversely, offences against property, primarily larceny, run the opposite course with their maximum in the winter months. These basic features of the crime rhytm were observed already by *Guerry* and *Quetelet* in the first statistical analyses of crime in France of 1826—30 and have later been confirmed by a number of investigations in Germany, England and other countries, *cf.*, however, as regards larceny, the investigation by *Veli Verkko* referred to in the sequel.

From the existing empirical sources the following points stand out:

As regards crimes against the person, the curve of wilful *murder*, according to *Verkko*, NKÅ 1942—43, p. 288, runs a more or less equable course throughout the year and shows, according to German and French investigations, a trend resembling that of crimes against property, the peak or one of the peaks fall-

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[1]) *Aschaffenburg*, Das Verbrechen, 3 Auflage, Heidelberg 1933, pp. 15 *et seq.*, *Bonger*, An Introduction to Criminology, London 1936, pp. 106 *et seq.*, *Exner*, Kriminalbiologie, Hamburg 1939, pp. 80 *et seq.*, *Ernst Roesner*, HdK I, pp. 688 *et seq.*, *Veli Verkko*, Brottskalender, NKÅ 1942—43, pp. 258 *et seq.*

ing in winter, while the curve of *ordinary homicide* reaches its maximum in summer in conformity with other crimes against the person, *vide, e. g., Roesner, op. cit.,* pp. 703—04, *Verkko, op. cit.,* p. 289, *Peter Gast,* Die Mörder, Kriminalistische Abhandlungen XI, Leipzig 1930, pp. 19 *et seq.*

In the case of *crimes of violence,* which are closely associated with alcohol, one finds the typical rise in summer and also a high frequency in winter whenever the consumption of alcohol increases as it does, for example, during the February Shrovetide festivals, *vide Roesner, op. cit.,* pp. 694 *et seq.*

As regards *sexual crimes,* statistics generally show a sharp rise from March to July and subsequently a sharp fall, *vide., e. g.,* the tabular survey by *Aschaffenburg, op. cit.,* p. 16, concerning German criminality and, on the part of Denmark, *le Maire,* Legal Kastration, 1946, pp. 90—93, according to which the maxima here, too, fall in the summer months, though somewhat later in the year (May to October with the maximum in August), as compared with German sexual criminality.

As far as the crime of *arson* is concerned, in Germany a particularly high frequency has been found in August and September, when motives and opportunity for the commission of fraudulent arson are supposed to be present to a particularly high degree. *Bo Gerle,* Mordbrännare, Lund 1943, pp. 44 f., however, found a fairly even distribution over the seasons in his investigation of Swedish incendiaries.

As regards *thefts, Veli Verkko* in NKÅ 1942—43, pp. 284 *et seq.,* has given results from the Finnish Criminal Statistics covering the five-year period 1934—38 which deviate essentially from the general curve in the French-English-German investigations. It appears from the Finnish statistics that the majority of thefts are committed during the same seasons as are homicides and assaults, thus not in winter, but during the summer and autumn months (the highest figures fall in October and November, while the homicides and assaults, according to the same investigation, culminate in August).

Different theories have been advanced *to account* for these seasonal variations.

First, attempts have been made to find a purely physical explanation of the increase in criminality in the summer months.

Particularly well-known here is *Ferri*'s theory referred to above, according to which high temperature should so influence the human organism as to release a surplus of energy, which, coupled with an increased irritability, manifests itself in assaults, sexual crimes, etc. Likewise, the assertion has been made that the excessive heat should reduce the inhibitory forces against immoral and criminal behaviour. None of these explanations, however, tells the whole story. There are countries, such as Finland, where the summer criminality in respect of crimes against the person culminates before the hottest period sets in. Besides, a weakening of morals in consequence of increased temperature would show itself in crimes in general, not only in crimes of violence, etc. With particular reference to sexual crimes *Gædeken,* as mentioned above, has advanced a hypothesis according to which sexuality should be affected by chemically active rays of light; this theory still deserves great attention. Assumptions of special electrical tension phenomena in the air, etc., have not been verified.

It seems likely that these variations are mainly due to sociological phenomena, which have hitherto made themselves felt, with some degree of uniformity, in the different countries. As far as *crimes against property* are concerned, it should be stressed that the winter months afford particular incentives to thefts and similar crimes (greater economic distress owing to increasing needs for clothing, fuel, etc., coupled with unemployment and more unfavourable employment conditions), and that the dark season provides better opportunities for committing burglary (which, it is true, according to German statistics shows smaller seasonal variations than does simple larceny). The fact that the winter season does not afford the same opportunities as the summer season for vagrancy or an otherwise anti-social life with no actual criminality may also come into play. The results of the most recent Finnish investigation deviate from the general picture, and show that the crime of larceny in the 1930's culminated in the autumn, and therefore that the sociological factors

are not stable. It is likely that direct motives of distress traceable to the winter season play a considerably more minor part than a hundred years ago. Only by an elaborate analysis on a national scale, with full control of the statistical data and all relevant factors, it will be possible further to indicate the sociological factors that may be of importance.

Also as regards *crimes against the person,* including in particular bodily assaults, libels and sexual crimes, there may be sociological factors which, to some extent at least, may account for the higher crime rate in summer. The most important factor here seems everywhere to be *alcohol;* not only does consumption increase because of the heat, but it is consumed more frequently than in winter, in places where many persons are present, thus involving the danger of frictions. As far as sexual crimes are concerned, the free open-air life in the summer time affords more ample opportunities for their commission.

It should be recognised, however, that it is difficult to offer a solely sociological explanation of a number of the available statistical data, in particular as regards sexual crimes. Here, the possibility of a *physiological* explanation cannot be entirely dismissed. *Aschaffenburg,* in particular has admitted this possibility[1]). According to his theory, man should be subject, mentally and physically, to certain periodical fluctuations, in particular in the sexual sphere, where a stronger impulse should make itself felt in the months of spring and early summer[2]). In support of this theory, the annual curves of sexual crimes and crimes against the person have been compared with the annual curves of conceptions, more particularly extramarital conceptions, and an approximate, if not complete conformity has been found. Likewise, there is a certain conformity with the curves of suicide and psychic disturbances, *vide Aschaffenburg, loc. cit.* All these

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[1]) *op. cit.,* pp. 19 *et seq.*

[2]) Cf. in this connection, on *escapes* from juvenile prisons *Sondén* in SvJT 1950, pp. 82 f.

phenomena may be traceable to internal organic reactions of a periodical nature, but nothing certain is known thereof.

Fluctuations according to the Day of the Week.

The question of a special criminal frequency on particular days of the week is primarily one of the influence of *alcoholic habits* on the seasonal incidence of crime. Existing investigations show that, while crimes unassociated with alcohol are evenly distributed over the days of the week, those in which alcohol is an important factor, especially crimes of violence are distributed differently. In countries where drinking is especially indulged in on particular days, in connection with the payment of wages and the weekly holiday, crimes of violence accumulate on such days, as a rule Saturday—Monday, culminating on Sunday.

Thorough investigations of the incidence of homicides and crimes of violence on the different days of the week have been conducted by *Veli Verkko, vide* NKÅ 1942—43, pp. 266—82.

Verkko discriminates between murders and other crimes against life and non-fatal assaults. While murders are more or less evenly distributed over the different days of the week, the unpremiditated homicides and the crimes of violence reach their maxima on Sundays, with Saturdays and Mondays coming next. The treatise produces statistical data from the years 1895—1931 with tabular surveys in respect of each category of bodily assault and the data on their incidence on each day of the week are combined with data on the frequency of alcoholic indulgence in respect of each group of convicted persons.

As to foreign literature, reference may be made to *Roesner,* HdK I, pp. 705 *et seq.*

As regards sexual crimes, *le Maire,* Legal Kastration, 1946, pp. 93—95, touches upon the incidence on different days of the week. It appears from his investigation that the chiefly abnormally determinated crimes, in particular exhibitionism, are evenly distributed over the days of the week, whereas rape and other sexual crimes with more normal motives behind them, which to

a higher degree are determined by exogenous circumstances, are centred on Saturday—Sunday.

Number of Offences Committed during Each Period of the Day.

This question, too, has been analysed statistically with great care, *vide Verkko, op. cit.*, pp. 263—66. Fatal assaults and other grave violence occurred most frequently in the late hours of the evening, ordinary (unpremeditated) homicides in the hours from 6 p.m. to 9 p.m., and murders during the morning and in the daytime. The differences are accounted for by the connection of the different categories of crime with alcoholic indulgence.

As regards the incidence of sexual crimes on the different periods of the day, *vide le Maire, op. cit.* pp. 95—96.

41.

THE AREAL AND REGIONAL DISTRIBUTION OF CRIME

Like the seasonal incidence of crime, its areal and regional distribution has held the interest of criminal statistics from their very beginning. Crimino-geographical works range over comparative investigations from state to state, from region to region, from rural to urban area and from urban quarter to urban quarter. While broad international investigations have everywhere proved little profitable because of crimino-statistical difficulties, much interest is still attached to regional investigations and to the study of the rural-urban distribution of crime and of its incidence in different urban areas. The last-mentioned field has only recently been included in crimino-geographical research. In American criminology, this study is also termed the ecology of crime.

As regards the history of criminal geography, reference may be made, among others, to *Roesner,* in MfK 1937, pp. 305 *et seq.* — The same treatise contains a detailed investigation of the regional distribution of crime in Germany; for American regional in-

vestigations, *vide Sutherland,* Principles of Criminology, New York 1947, p. 133. A wellknown French investigation of an earlier date is *Henri Joly,* La France criminelle, Paris 1889.

Urban-Rural Distribution[1]*).*

Most statistical investigations indicate that criminality, in general, is a more frequent phenomenon in the towns than in the country and in large than in small towns. More recent investigations show, however, slight deviations from this trend. American towns with a population of more than 250,000, for example, show, according to *Sutherland* a relatively smaller crime rate than do towns with one of 100,000 to 250,000[2]).

In contradistinction to the general conception, *von Hentig,* MfK 1927, pp. 440—42, and 1932, p. 436, has argued that the smaller crime rate of the rural districts, as compared with the towns, is a statistical legend, disproved by data on the criminality in Vienna as compared with the Tyrol, and in Amsterdam as compared with the rest of Holland. von Hentig asserts outright that the rural areas' crime-rate exceeds that of the towns. This assertion, however, has been rejected as untenable after more detailed investigations, *cf. Hans Herman Burchardt,* Stadt und Land, HdK II, pp. 663 *et seq.* vide, also, *Exner* Kriminalbiologie, Hamburg 1939, pp. 289 *et seq.*

Any statistical investigation of the relationship between urban and rural criminality is beset by various difficulties, including the demarcation between urban and rural areas being open to doubt. Besides, the basic factors of the respective statistics complicate the evaluation, varying as they do now with the *place of birth* of the convicted persons, now with the *residence,* the *place of perpetration* or the *place of conviction.* Indications of the place of perpetration and the place of birth are probably

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[1]) *Hans Hermann Burchardt,* Kriminalität in Stadt und Land, Berlin 1936, and the same author in HdK II, pp. 663 *et seq., Willi Gierlichs,* Stadt und Land, HdK II, pp. 654 *et seq.* (a crimino-sociological treatment of the subject).

[2]) *op. cit.,* p. 135.

the most informative. Next come the indications provided in Danish criminal statistics of the place of conviction and place of birth. Under Danish law the place of conviction is, as a general rule, identical with the place of perpetration.

In the sequel a brief summary will be given of the conditions in Denmark as they appear from the general criminal statistics. The number of special investigations is very limited.

According to the Danish *Criminal Statistics for 1947*[1]), arrests preponderated in the capital (Copenhagen-Frederiksberg)[2]). The statistics of *notification* showed the following incidence per 1,000 of population: the capital 42.4, the provincial towns 39.8 and the rural areas 16.3. Further, the statistics of conviction have the following typical incidence (in conformity with the general trend in foreign countries) per 100,000 of the population over 15 years of age:

		The capital	The provincial towns	The rural areas	The whole country
Men	1947	1,164	1,046	325	732
	1946	1,098	999	334	704
	1943	1,299	1,167	382	815
	1939	623	492	198	381
Women	1947	165	172	37	113
	1946	174	180	34	116
	1943	220	197	43	137
	1939	58	51	14	37

The total crime rate (criminal-law criminality) in Copenhagen-Frederiksberg is thus more than three times as high for men as that of the rural areas and it is in excess of that of the provincial towns. For women the crime rate is five times as high in the towns as in the rural areas.

1) Danmarks Statistik. Kriminalstatistik 1947. Copenhagen 1950.

2) Of nearly 60,000 arrests about 40,000 were made in the capital, nearly 15,000 in the provincial towns, and slightly over 4,000 in the rural areas.

As regards *individual types of offence,* a number of foreign, in particular German investigations, show that a few crimes are most frequent in the country, more especially certain crimes of violence (gefährliche Körperverletzung), infanticide and arson, while the majority are most frequent in the towns, including crimes against property. A very typical urban crime is fraud.

As far as Denmark is concerned, the general criminal statistics provide, in broad outline, a certain guidance in the following division of the crimes into four main groups, indicating the percentual incidence of crime in the capital, the provincial towns and the rural areas respectively for each of these groups. The figures relate to the year 1947, which shows the same picture as the preceding years after the coming into force of the Criminal Law:

Year 1947 Men	Sexual crimes	Crimes of violence	Crimes against property	Other crimes
Capital	4.8	7.6	85.1	2.5
Provincial towns	5.3	10.1	80.9	3.7
Rural Areas	8.2	11.4	74.1	6.3

As will be seen, the rural areas have a relatively higher proportion of sexual crimes and crimes of violence, and a relatively lower proportion of crimes against property.

Foreign statistics of sexual crimes often show a higher figure for urban than for rural areas. This trend is to some extent confirmed by *le Maire*'s investigation of Danish sexual criminality. However, it also stands out clearly from the latter that the individual subtypes of sexual criminality present great differences, rape and obscenity with adult women being most frequent in the country, while the towns show an excess of obscenity with girls and boys and exhibitionism.

Vide, further, *le Maire,* Legal Kastration, 1946 pp. 96—98. — It should be noted that the crime of incest has shown an even

distribution in relation to the number of inhabitants, as regards father—daughter incest, while incest among siblings is more frequent in the country.

A deeper analysis of the urban-rural distribution of crime presupposes not only a differentiation of the investigations in regard to the different types of offence, but also other divisions into *male and female criminality* and into *criminal beginners and recidivists,* as well as investigations of the amount of *migration* of convicted persons *from rural to urban districts* or from urban to rural districts. The Danish Criminal Statistics provide information on this subject which has, however, not yet been further analysed.

Vide, further, the *Danish Criminal Statistics for 1947,* table 13, on the distribution of first offenders and recidivists according to place of conviction, nature of offence and age. There are more first offenders than recidivists in the rural areas than in the towns. — Figures are also available on the distribution according to place of birth. About 80 percent. of the persons convicted in the rural areas were also born in the country. On the other hand, only 54 per cent. of the men and 46 per cent. of the women convicted in the capital were born there, and an even larger number of those convicted in the provincial towns were born in the rural areas, cf. *op. cit.* p. 38, where the difference between the sexes is attributed to the fact that more women than men migrate to the towns and that they do so at an earlier age. It may be added that the Criminal Statistics for the preceding years show the same picture. — For comparison *vide* the data given by *Torsten Eriksson,* Brott och Samhälle, Stockholm 1939, pp. 72 f., on the migration from rural to urban areas in a Swedish examination of about 1,100 prisoners who served a sentence of imprisonment in 1949: 20 per cent. had migrated from rural to urban areas, while there had been practically no migration the other way.

No single *explanation* of the difference between urban and rural criminality may be offered since there is no question of a more or less stable difference, independent of time and place and nature of offence. If, in spite of the present development

of communications and the obliteration of other former distinctions between urban and rural life, essential differences in the extend of types of crime continue to make themselves felt in a given community, the explanation must be traced in part to a number of more general sociological factors, in part to more special factors directly favouring or impeding the particular type of crime.

In the former respect, sociologists have emphasised in particular that the rural population is still more homogeneous than the urban because of the more uniform way of gaining a livelihood, the fewer and more personal contacts between individuals, and the greater importance of the social control exercised by primary groups (family, household, etc.), as compared with the towns, more particularly the large towns. As opposed to this urban life offers greater possibilities of friction, greater temptations and a higher degree of anonymity. Thefts, which have a greater influence on total criminal statistics than has any other type of crime, are clearly easier to commit in the large towns, as well as to plan, and the stolen property may also more easily be disposed of to receivers. That the professional thieves and other criminals keep to the large towns is unquestionable and easy of explanation. It is a disputed question, however, whether it is primarily the urban conditions of life that add fuel to the persistent criminality or whether, conversely, potential criminals and other persons of social inferiority who would tend to commit crimes wherever they were, are particularly attracted by the towns. How to account for the particularly high crime rate of a specific quarter of a town presents the same problem. According to our present knowledge of the interplay between endogenous and exogenous factors, it seems obvious that the problem is wrongly formulated. This is an interaction where personal and external factors alike make themselves felt, not one or the other. When *Exner* says that "many persons have become criminals not because they are living in a large town, but that they have

come to live in a large town, because they are criminals"[1]), it should be pointed out that only in extreme cases, if at all, is this sharp causal distinction between "the large town" and the "criminal" possible.

Criminal Areas[2]).

In recent American criminology intensive pioneer investigations have been made of the incidence of crime within a few large and small towns, by *Clifford R. Shaw, Sutherland* and *Taft.* These investigations have discovered the existence of special delinquency areas with a high crime rate. In Chicago and a number of other towns such areas have proved to be situated near the centre of the town, and it has been demonstrated that the crime rate falls proportionally with the distance from the centre. The criminal areas have correspondingly high rates of truancy, child and juvenile delinquency and of adult criminality alike, and it has been found, in particular in Chicago, that the criminal area has remained unchanged over a long period (1900—1930) despite great changes in the national and racial composition of the population.

It goes without saying that no inference may be drawn from these investigations as to similarly tainted town centres in non-American towns with a different distribution of poor quarters and slums. Local conditions come very much into play here, such as the fact that such areas in the large towns of the United States of America have long been due for demolition for industrial

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[1]) Kriminalbiologie, Hamburg 1939, p. 294.

[2]) *Clifford R. Shaw,* Delinquency Areas, Chicago 1929; *Clifford R. Shaw and Henry D. McKay,* Social Factors in Juvenile Delinquency, National Commission on Law Observance and Enforcement, Report on the Causes of Crime, Vol. II, Chap. 5; *Sutherland,* Principles of Criminology, New York, 1947 pp. 131—52; *Donald R. Taft,* Criminology, N. Y., 1945, pp. 151—66. — On the conditions in London, *vide Cyril Burt,* The Young Delinquent, 4th Edition, 1945, pp. 70—78; the most criminal quarters here are not in the very centre, but in the densely populated districts adjacent to the City.

and commercial housebuilding and, accordingly, have had a very low rent level in connection with disrepair and other neglect.

What may be learned from these investigations, on the other hand, is that there exists a special danger of areas developing in the centre or the suburbs of large towns, which operate both as breeding-grounds of criminality and social deterioration, as the most serious sources of contagion to the social-minded members of the population who from poverty are forced to settle there, and as reception areas for elements who themselves make for a criminal area from outside[1]). Practically, the American investigations have given the impetus to sanitary measures, the establishment of welfare services, spare-time activities, etc., in such areas and have thus had a direct importance from the point of view of penal policy.

PERSONAL FACTORS

42.
AGE.

Age is an important factor in the causation of crime, not only legally, but also criminologically, and is to some extent associated with such factors as sex, nationality and race. It is difficult to range these factors in a systematology making a clear-cut distinction between endogenous and exogenous elements. The age as such, the sex as such, the nationality and the race are neutral concepts from a criminalistic aspect. Only in their interplay with environmental factors do they attain criminalistic importance. There is here a difference, as compared with the criminal factors so far referred to: the hereditary taint, psychic abnormalities, etc., where it is true, there was also a continuous interaction between external conditions and inner dispositions, but where the latter were capable of separation as crimogenic, at least theoretically.

[1]) *Cf.*, in this connection, *C. M. Bratfort* in Politiet, 11th Vol., 1950, pp. 181 *et seq.*, about Nyhavn as a Copenhagen criminal area; the author emphasises, in particular, the conditions relating to the sale of *alcohol* as the cause of the adverse conditions existing in the area.

Age Distribution among Criminal Persons.

The question of the age distribution among criminals should be viewed in the light of the age distribution in the general population.

Goring, The English Convict, London 1919, pp. 122 *et seq.*, has made comparison of the age curves in respect of the criminals covered by the investigation and of the general population. The investigation shows that the age distribution of the criminals deviates significantly from that of the average population. For the age groups from 20 to 45 years the differentiation is positive, thus showing a relatively larger proportion of criminals in these age groups, and after 45 it is negative.

Countless individual investigations exist of the age distribution in different groups of criminals, in particular in *prison populations.* Of more general interest are those of the age distribution among *convicted persons* in general; nor do these data, however, give a correct picture, as they do not include the figures for *juvenile delinquency where the charge is withdrawn* against welfare measures being taken in lieu of punishment. In Denmark, sect. 30 of the Criminal Law provides for such withdrawal of the charge in respect of acts committed by young persons between 15 and 18 years of age. As regards age distribution, the

Number of Convicted Persons by Age.

	Number of convicted men per 100,000 of the male population				
	1933-37 average	1940	1941	1946	1947
18—20 years	878	949	1348	1582	1610
21—24 years	928	941	1255	1728	1583
25—29 years	666	651	952	1351	1359
30—39 years	449	450	654	876	981
40—49 years	279	306	415	496	578
50—59 years	139	155	191	230	271
60 years and over .	42	41	54	65	78
Total	392	397	555	704	732

conviction statistics are thus only of interest for *the age groups over 18 years.*

39 persons under 18 years of age were convicted in 1947 for violations of the Criminal Law, but under sect. 30 of the Criminal Law and sect. 150 of the Public Assistance Act the charge was withdrawn the same year in respect of 1469 persons.

The Danish Criminal Statistics for the year 1947 show that the number of convicted men per 100,000 of the male population is *highest in the age group 18—20 years* and but slightly lower in the age group 21—24 years[1]). Nearly one-third of the men and nearly half of the women fall into these young age groups.

These statistics may be compared with a survey, prepared by the Prison Administration, of the age of convicted prisoners serving their term in the State Prisons on May 1, 1948. According to this survey the number of prisoners was:

Age Groups	*Number*
Under 20	80
20—25	682
25—30	615
30—35	393
35—40	286
40—50	265
50—60	77
Over 60	13

For information on the conditions in other countries a few figures will be given here. A direct comparison with the Danish statistics is impracticable, as the criminality to which the figures relate is determined differently in the different investigations, just as the delimitation of the age groups varies.

On the conditions in *Sweden* some data are provided by *Torsten Eriksson,* Fången, människan, straffet (by Else Kleen *et alii),* Stockholm, 1944, pp. 87 *et seq.; cf.* the table below concerning the annual number of offenders in the period 1936—40 per

[1]) During previous years the leading age group has been that of 21 to 24 years.

1,000 of each age group (the criminality covers persons convicted for "fylleri" (drinking), for thefts and for conduct having involved a penalty more severe than a fine):

Age Group	*Men*	*Women*
18—21	5.2	0.7
21—25	4.5	0.4
25—30	3.5	0.2
30—40	2.5	0.1
40—60	1.2	0.0
60 and over	0.1	0.0

The distribution shows the same tendency as in Denmark, only still more pronounced, *viz.* that of a declining scale of criminality from younger to older age groups. We meet with a similar picture practically everywhere. *Cf., e. g.,* as to *Belgium: de Greef,* Introduction à la criminologie, Bruxelles 1946, pp. 164 *et seq.:* the male crime rate reaches its maximum between 18 and 25 years, 22 years being the average age; as regards *England: W. Norwood East,* The Adolescent Criminal, London 1942, p. 18: 1930—37 the average number of male offenders per 100,000 population: 16—21 years: 708, 21—30 years: 446, 30 years and over: 171; in the *United States of America: Wood and Waite,* Crime and its Treatment, New York 1941, pp. 229 *et seq.:* the highest ratio in 1935 of prison commitments per 100,000 of population was for persons 20 years of age, for both sexes; the second highest ratio was for persons 19 years of age (the opposite in 1934), with the age group 21—24 years coming next. The ratio was progressively smaller for each ensuing age group, the decline being more rapid for males than for females. An investigation of the age distribution in 1937 among prisoners from all of the United States of America showed the most frequent age to be 22 years, closely followed by the ages of 21, 19, and 23 and, in general, with high figures for persons under 25 years of age: in the case of robbery 55 per cent., larceny 48 per cent., auto theft 73 per cent., homicide 30 per cent., and rape 46 per cent. These figures, say the authors, show that the crime problem is first and foremost one of juvenile delinquency.

The total picture of the age distribution, as far as can be gleaned from the deficient statistics, has been outlined by *Thor-*

sten Sellin as follows[1]): "The tendency to anti-social behaviour increases through the school years, culminates between 20 and 25, declines slowly up to the age of 40 and then falls rapidly to cease altogether in old age. The curve is no different from any other activity curve depending on the vitality of man."

Age at the First Offence.

Through many investigations it has been ascertained that persistent criminals start on their criminal career at a very early age. Significant differences have been proved statistically between groups of recidivists and groups of non-recidivists, occasional offenders, etc., in whom the criminal tendency generally declares itself at a later age.

This has been taken as evidence of the predominating importance of the hereditary factor. Thus *Goring*[2]) assumes that the early age at which most habitual criminals are first convicted is due to their anti-social dispositions, like most other human dispositions tending to appear at the earliest opportunity, and in this respect he refers to the age distribution in the case of scarlet fever. The argument is halting, however. There is nothing to prevent the early start of a criminal career, as well as later persistent criminality, from being chiefly due to particularly unfavourable environmental conditions, and this must largely be assumed to be the case.

Mere statistical data on the age at *first conviction* is of not much interest owing to the withdrawal of charges in the case of minors. Nor do statistics aiming at providing figures on the age at *first offence,* regardless of conviction or withdrawal of the charge, cover all the relevant factors. In the case of the low age groups concerned, the distinction between offences and other behaviour anomalies is too artificial. As *Burt* and others have

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[1]) In an article in the periodical „Vi", Vol, 34, No. 18, Stockholm 1947.

[2]) The English Convict, London 1919, pp. 131 *et seq.*

done in more recent investigations one has to take account, also, of a number of pronounced forms of *viciousness* known by experience to be closely associated with child and juvenile delinquency, such as truancy, running away from home and persistent lying. In including such and similar criteria of misbehaviour, etc., in investigations of different groups of criminals, many "danger signals" have been found in early childhood. However, although it is certain that early maladjustments may be demonstrated in a great number of criminals, especially recidivists, it is equally certain that no inferences may be drawn from such maladjustments in childhood and adolescence as to a later criminal career. There can be no question of more than a danger signal, certainly not of symptoms of an inevitable fate.

Among Danish investigations relating to the age at the first offence may be mentioned *Stürup* and *Christiansen*'s (unprinted) investigation of 335 State prisoners, 1946. The vast majority of the prisoners committed their first offence between the ages of 15 and 34 years, *the maximum falling between 18 and 19 years.* It appears from the investigation that "the graver the criminality, the earlier has it started". However, since the determination of the criminality as "grave" in this investigation is based on the number of convictions and the frequency of commitments, the result does not take us much further.

As regards the relationship of recidivism to early criminality, reference may otherwise be made especially to German literature, *cf.,* in particular *Stumpfl*'s distinction between Frühkriminelle (with criminality prior to the 25th year of age) and Spätkriminelle, *vide* Stumpfl, Ursprünge des Verbrechens, Leipzig 1936, pp. 147 *et seq. Vide* also below on page 428 concerning the importance of early criminality in judgments of prognosis.

As an example of investigations concerned with the early danger signals (other than actual criminality) may be mentioned the *Glueck* investigations of different groups of American offenders, *vide,* in particular, One Thousand Juvenile Delinquents, Cambridge, U.S.A., 1939, pp. 95 *et seq.:*

Of 983 boys who had committed punishable acts 64 per cent. had played truant, 49 per cent. had run away from home and

12 to 13 per cent. were in the habit of excessive and frequent lying. Their age at their first misbehaviour was in 643 known cases as follows:

6 years or less	88	(14 per cent.)
7—8 years	145	(23 " ")
9—10 years	170	(26 " ")
11—12 years	136	(21 " ")
13 years and over	104	(16 " ")

Individual Maturation.

The age groups used by statistics must be determined by the chronological age. However, if the time of individual maturation deviates from the average, a difference becomes apparent between the chronological age and the *age of maturity* ("l'âge de la personnalité")[1]. The latter, of course, is the more interesting from the point of view of criminology.

The most recent American criminologists have been much concerned with the problem of maturity. According to *Sutherland* this term indicates that criminality in persistent criminals pursues a consistent course[2]. A person's criminal age is determined by the point he has reached in the process of maturation, a process which depends first on his general attitudes towards criminality and, secondly, on his techniques.

Sutherland further states that an American boy of 12 to 14 years may have reached full criminal maturity; criminality has then become an integral part of his personality; he makes plans for the execution of delinquencies, considers how to secure immunity in case he is caught and takes imprisonment philosophically as a part of his life.

Sheldon Glueck and Eleanor T. Glueck, in After-Conduct of Discharged Offenders, London 1945, have advanced a special theory of maturation based on their statistical analyses of a great number of criminal careers. These authors believe they

[1]) *Étienne de Greef,* Introduction à la criminologie, Bruxelles 1946, p. 168.

[2]) Principles of Criminology, New York 1947, pp. 199 *et seq.*

have ascertained a certain average-span from the beginning to the end of the criminal career. "On the whole, if the acts of delinquency begin very early in life, they are abandoned at a relatively early stage of manhood" (p. 84). This is supposed to arise from the fact that the underlying factor in persisting recidivism is the lack of maturity. As the criminals mature chronologically they become law-abiding. In some persons, however, the cessation of criminality or their reduced aggressiveness is due, not to the achievement of maturation, but simply to their "burning out". — This interesting theory, however, is not sufficiently supported by the information so far available, *cf. Sutherland*'s critical observations on page 202, where he calls attention to the fact that the statistical results as to a comparatively early cessation of early criminality under the favourable influence of age are affected by the exclusion, as mental deviates, of a large number of those who continue to be criminals after the age of 35.

As mentioned earlier (*supra* p. 209), a childish psyche, or *lack of maturity,* is often characteristic of persons having a deficient power of social adjustment. In forensic psychiatry, consideration is increasingly being given to this fact[1]), and there is now considered to be a not small number of psychoinfantile offenders (*supra* pp. 169 and 193).

The Importance of Age in the Case of Specific Types of Crime.

Comparisons between the age distribution in the case of different types of crime show characteristic differentiations. In some categories the proportion of young perpetrators is particularly high, in others older[2]) perpetrators come to the fore. Here age is referred to as a selective factor in crime.

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[1]) *Cf.* the statement of the Expert Committee on Mental Health: "The most striking psychological characteristic that is common to large numbers of criminals is their emotional immaturity" (World Health Organization, Technical Report Series No. 9, Geneva 1950, p. 25, *cf.* p. 39).

[2]) *Vide,* in this connection, *Jørgen Trolle,* Om reaktionen mod forbrydelser begået af gamle personer (On the Reaction to Crimes committed by old persons), NTfK 1949, pp. 90 *et seq.*

In Journal of Criminal Law and Criminology XXXVII, 1946, pp. 141 *et seq., Vernon Fox* gives an account of American investigations relating to age selection. The author himself has investigated more than 5,000 prisoners. His conclusion is that age seems to be one of the most important selective factors in crime. The statistical analysis of the age figures for the different types of crime showed young men to be especially frequent in the following groups: auto theft, kidnapping, robbery, burglary, escape from prison, unlawful possession of firearms. Men of more than average age (33.7 years) were found in significantly large numbers in the following groups: crimes against the safety of the State, against public order, against public morals, forgery, embezzlement, fraud, etc.

The picture standing out from this investigation tallies with former experience in the United States of America, *cf., e. g., Wood and Waite, op. cit.,* pp. 229 *et seq.,* according to which well over half the persons committed for robbery, burglary and auto theft (in Michigan 1931—35) were under 25 years of age. On the other hand, it will be seen that for sexual crimes, homicide, assault, etc. more older persons were committed; in the case of sexual crimes more than 40 per cent. were over 40 years of age.

As far as German investigations are concerned, reference may be made, in addition to the textbooks, to a treatise by *Georg Schwab* in MfK 1941, pp. 220 *et seq.* The author tries here to determine the importance of age for the individual criminosociological types of criminals, divided according to the Kretschmer constitution-types.

In Denmark no general criminological investigation of age distribution with reference to individual types of crime has been conducted so far. The general criminal statistics give some guidance in broad outline only.

Vide the Criminal Statistics 1943, Table VII, B, and the survey on page 24 on the incidence of crime by age. The crimes are here divided into four main groups: sexual crimes, crimes of violence, crimes against property and other crimes. Of the convicted men under 25 years of age 39 per cent. had committed crimes against property, 34 per cent. crimes of violence and 26 per cent. sexual crimes, *cf.* the below survey:

	Under 18 years	18-20 years	21-24 years	25-29 years	30-39 years	40-49 years	50 years and over	Total
Men 1948	pct.	pct.	pct.	pct.	pct.	pct.	pct.	pct.
Sexual crimes.....	0,8	9,8	12,1	14,1	22,1	18,3	22,8	100,0
Crimes of violence etc.	0,6	9,6	20,7	20,0	27,2	15,7	6,2	100,0
Crimes against property	0,4	14,5	18,7	19,2	27,0	13,9	6,3	100,0
Other crimes	0,9	9,6	7,9	15,2	28,1	23,7	14,6	100,0
Total:	0,4	13,6	18,1	18,9	26,8	14,7	7,5	100.0

Of considerable interest are the age investigations in the forms of monographs relating to specific types of crime. In northern European literature such investigations have been conducted *inter alia,* in regard to arson, incest and other sexual crimes.

Vide Bo Gerle, Mordbrännare, Lund 1943, pp. 54 f. According to this investigation the crime of arson is no typical pubertal phenomenon, as is sometimes assumed, the age group 15—25 years only being responsible for 30 per cent. of all arsons.

Kinberg et alii, Incestproblemet i Sverige, Stockholm 1943, p. 115, states that in the case of father-daughter incest the father's age, at the commencement of the incest, averaged 43 (with considerable variations) in the 58 cases investigated. For comparison vide *v. Hentig* und *Viernstein,* Untersuchungen über den Inzest, Heidelberg 1925, pp. 9 f., on the average age at conviction for incest (47.9 years).

For the average age of sexual offenders in general, *vide Louis le Maire,* Legal Kastration, 1946, p. 98, *cf.* on the age distribution in respect of the individual forms of sexual offence the table on page 97. According to this table rape, obscenity with women, obscenity with girls and copulation with girls under 15 years of age culminate in the youngest age group (15 to 19 years incl.), while obscenity with boys and exhibitionism culminate in the age group 30—39 years incl.

43.
SEX[1]).

The large majority of crimes are committed by men. The question of the criminalistic importance of sex is thus, in our social order, practically identical with the question of *female criminality,* the latter to some extent being an exceptional phenomenon requiring separate treatment.

Extent and Distribution of Female Criminality.

Convictions per 100,000 of the population over 15 years of age.

	Men	Women
1947	732	113
1946	704	116
1943	815	137
1942	739	112
1941	555	71
1940	397	44
1939	381	37
1938	389	40
1933—37 average	392	37

In recent years, female criminality (convictions under the Criminal Law, apart from begging and loafing) in Denmark has amounted to *about 14 per cent. of all criminality*[2]), whereas

[1]) Of the vast literature the following principal works should be mentioned: *Lombroso,* La donna delinquente, Torino 1893, German edition: *Lombroso und Ferrero,* Das Weib als Verbrecherin und Prostituirte, Hamburg 1894, English edition: The Female Offender, London 1895; *Paul Näcke,* Verbrechen und Wahnsinn beim Weibe, Wien und Leipzig 1894; *Erich Wulffen,* Das Weib als Sexualverbrecherin, Berlin 1923; *S. von Koppenfels,* Die Kriminalität der Frau im Kriege, Kriminalistische Abhandlungen II, Leipzig 1926; *Ernst Roesner,* Geschlecht und Straffälligkeit, HdK I, Berlin 1933, pp. 574 *et seq.; Veli Verkko,* Om könet som kriminalitetsfaktor vid våldsbrott, NTfS 1937, pp. 91 *et seq., Otto Pollak,* The Criminality of Women, Philadelphia 1950.

[2]) In 1947 the number of convicted men was 11,069, as against 1,779 women, and in 1946 the corresponding figures were: 10,592 and 1,820. — During the post-occupation years the number of convicted men has risen by more than 100 per cent. since 1939, while the number of convicted women is more than three times as large as in 1939. These figures do not include high treason.

the percentage during the first seven or eight years after the coming into operation of the Criminal Law (1933) was nearly nine. If the cases of loafing, which are excluded from the ordinary criminal statistics, are included, the proportion of female criminality is somewhat increased, but the figures are too small substantially to change the total aspect[1]). As compared with the crime rate for men, the crime rate for women in 1947 amounted to about one-sixth, as against only about one-tenth in 1939.

It is questioned whether the conviction statistics give a true picture of female criminality, or whether women have not an especially large amount of "hidden criminality" and in general also meet with more leniency from the police and in the law courts and thus more often escape prosecution or be acquitted[2]). It is doubtful, however, if even these factors could very much change the picture presented by the conviction statistics. Hidden criminality is probably most important in cases of criminal abortion, but then there is also a large amount of hidden criminality in respect of many of the crimes which are chiefly committed by men.

The percentual *distribution of main groups* of crimes shows very much the same picture for men and women, except that the percentage of sexual crimes is lower for females and that, in recent years, women have committed an increasing number of crimes of violence. For men and women alike, crimes against property constitute the largest group, accounting in the last years covered by the statistics for about 80 per cent. of the total male as well as female criminality.

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1) Viewed retrospectively over a very long period: 1832—1937 Danish criminal statistics show a relative decline in female criminality, *vide Karl O. Christiansen* in Politiet, 8th Vol., 1946, pp. 243—46, according to which the proportion of men convicted as compared with that of women, has risen from 2.4 to 9.1. It can hardly be assumed, however, that this statistical development is indicative of an actual fall in female criminality in proportion to that of men; it should, *inter alia,* be taken into account that prostitution was a punishable offence up to 1906.

2) This point of view has recently been especially emphasised by *Otto Pollak,* The Criminality of Women, Philadelphia 1950.

Percentual Distribution of Convicted Men and Women over the Main Groups of Crimes.

		Sexual crimes	Crimes of violence	Crimes against property	Other crimes
1947	Men	5.7	9.3	81.3	3.7
»	Women	1.3	15.6	77.8	5.3
1946	Men	4.7	10.0	81.8	3.5
»	Women	2.0	19.4	74.5	4.1
1943	Men	5.5	10.2	79.9	4.4
»	Women	1.1	13.3	79.8	5.8
1942	Men	6.4	11.0	79.2	3.4
»	Women	2.2	12.5	80.3	5.0
1941	Men	6.5	12.7	77.1	3.7
»	Women	1.3	11.1	79.4	8.2
1940	Men	8.0	16.1	71.0	4.9
»	Women	6.3	11.6	74.8	7.3
1939	Men	9.9	16.8	67.8	5.5
»	Women	7.1	11.5	73.2	8.2

In considering particular crimes, as legally defined by the Criminal Law, it should be noted first of all that some of them are purely female crimes in the sense that the description of the crime suggests that it is committed by a woman.

This is the case in regard to sect. 238 of the Criminal Law on *infanticide* ("If a mother kills her child ..."), sect. 251 on *misconduct at childbirth* ("A woman who at childbirth...") and the *Pregnancy* Act of 18 May 1937 sect. 6, subsect. 1 ("A woman who procures an abortion or wilfully obtains one ..."). It is obvious that in the case of these penal clauses the statistics relate exclusively to female criminality. The conviction rate of such cases, however, is very small, particularly for infanticide and misconduct at childbirth.

Of the penal clauses which, by their nature, relate to both men and women there are very few for which the statistics of convictions show that female exceeds male criminality. On such clause, however, is section 199 and 200 of the Criminal Law on *"loafing"* which in practice almost exclusively apply to women (who make their living by prostitution and do not obey the order of the police to seek lawful occupation) and another is sect. 256 on the *spreading of venereal infection* where the conviction rate for women, after having more or less equalled that of men for some years, rose to four times that of men during the years of occupation (in 1943: 102 as against 26). Women also lead in respect of *illegal co-operation in procuring abortion* (the Pregnancy Act sect. 6, subsect. 4) and they are strongly represented in the convictions under sect. 158 of the Criminal Law on *false evidence in court.* All these types of offence where female criminality is predominating according to the Danish Criminal Statistics are closely *associated with the female sex functions.* This is true also of false evidence in court, as more often than not it is the affiliation cases which bring the women into conflict with the Criminal Law.

For more detailed data in foreign criminal statistics on the incidence of female criminality in particular types of offence, reference may be made to the observations below.

As regards the form of female criminality, women are often alleged to be particularly prone to complicity, especially instigation, in preference to perpetration. The Danish statistics of convictions where the complicity rules of the Criminal Law are applied do not confirm this assertion; nor do they disprove it however, not all cases of complicity, but only such as give rise to a reduction of penalty, being covered by the statistics. On the other hand, statistical investigations conducted in foreign countries, in particular in regard to homicide, support the assumption, *vide* below on *Verkko*'s investigations.

As far as *age distribution* is concerned, the trend is, in broad

outline, the same as that stated above in the discussion of age questions in general, that is to say an ever-decreasing rate from the age of 25 years upwards. As mentioned already, the young age groups (between 18 and 25 years) are even more predominating in female than in male criminality, well over half of the convicted women (as against well over one-third of the men) being under 25 years of age. There are more *criminal beginners* among the women than among the men, in recent years about 80 per cent. as against about 60 per cent. This fact has some relation to the fact that *suspended sentences* are applied to a far greater extent in the case of women than in the case of men (in 1943 in 60 per cent. and 21 per cent. of convictions respectively, in 1933—37 on an average in 63 per cent. and 34 per cent. of conviction respectively).

So far conditions in Denmark only have been discussed. As to the extent and distribution of female criminality in other countries, the criminological textbooks of the latter should be consulted for details. Comparative investigations have been conducted in particular by *E. Hacker,* MfK 1931, pp. 269 *et seq.*, and *Ernst Roesner,* HdK I, 1933, p. 593, *vide* on *Verkko*'s special investigations below. A survey of the principal results of these investigations is given by *Exner,* Kriminalbiologie, Hamburg 1939, p. 186, which shows that female criminality in the different countries varies from about 5 per cent. to about 25 per cent. of convictions. It is relatively low in the Scandinavian countries, *vide* on Sweden *Torsten Eriksson* in Else Kleen *et alii,* Fången, människan, straffet, Stockholm 1944, pp. 86—87: in 1940 45 men and 5 women were convicted per 1,000 of the population over 15 years of age.

As to the incidence of the different types of crime, detailed data are provided, in particular by the German statistics in *Roesner*'s analysis, *op. cit.*, pp. 584—85. The crimes where the female crime rate is higher than the male crime rate, are accordingly (in the order stated):

Abandonment of helpless person (in particular concealment of birth, *cf.* sect. 250 of the Danish Criminal Law), criminal abor-

tion, procuring, poisoning, false accusation, perjury, incest, libel, receiving, simple larceny.

Conversely, women have a lower crime rate than men in respect of:

Duel, robbery, grand larceny, ravage, aggravated assault, violence and threats against officials, violation of domestic peace, slight assault.

Distinguishing Features of Female Criminality.

Its lower rate and its special distribution are enough to stamp female criminality with a character of its own. Attempts have been made, however, to lay down more general characteristics as well as to demonstrate specifically female criminal features and forms in the case of particular types of offence.

In the former respect it has been a general assumption, more especially in earlier times, that biological, in particular psychological, female characteristics must be a determining factor in crime.

It is natural that attention has primarily been focussed on the *inferior physical strength* of women, which has been supposed largely to account for the smaller proportion of crimes of violence they commit, as compared with men, and their use of less violent, more indirect methods (instigation, poison, etc.) in the case of homicide. More questionable are the theories referring to *psychological characteristics.* Some authors explain the lower crime rate of women by their more developed moral disposition[1]), others by their possession of less courage and a weaker inclination for alcohol, and by their more passive attitude, in particular in the sexual sphere, etc. As regards the women who commit criminal acts, criminological literature, since Lombroso, affords a number of broad psychological characterisations of little or no value.

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1) *Vide, e. g., Aug. Goll,* Forbrydertyper hos Shakespeare, 1907, pp. 89 f., who in his description of Lady Macbeth stresses *altruism* in relation to the nearest relatives as a female characteristic.

Lombroso und Ferrero, Das Weib als Verbrecherin und Prostituirte, Hamburg 1894 (English edition: The Female Offender, London 1895, to which the references on this page relate), stress by way of introduction the anatomical characteristics of criminal women, but find here nothing of particular interest. The theory of the "born criminal" is applied also to women, though it is emphasised that the type is far less frequent than in respect of men. The following picture is drawn of the female born criminal:

She is characterised by infantile traits: extreme cruelty, revenge, egoism and vanity. Physically she is marked by premature development and a general virility. In crime she proceeds according to a carefully arranged plan, preferring instigation to action by herself, *vide* further pp. 147 *et seq.*

As other female criminal types Lombroso mentions hysterical and passionate criminals, pp. 218 *et seq.* and 244 *et seq.* There is no need to dwell further on his description of such types.

In a work by *Hans Chr. Kjærsgaard,* Kvinden som Forbryder, Juristen 1939, pp. 173 *et seq.,* one meets with similar general descriptions. The most important of the "specific female character traits" that limit female criminality are listed as: lack of willpower, timidity and lack of independence. Other "female character traits" which are influential in various ways are: depth of emotional life, propensity for states of affectation and hysterics, insincerity, lack of a developed social feeling, subjective attitude with a deficient sense of justice, etc. — The only comment to be made to such descriptions is that a converse one could be urged with the same lack of validity.

Far more interesting are the observations made of characteristics of female criminality in the case of special types of offence. Intensive investigations in this field have been conducted by the Finnish criminal statistician *Veli Verkko,* more particularly with reference to crimes of violence.

Vide Veli Verkko, Om könet som kriminalitetsfaktor vid våldsbrott, NTfS 1937, pp. 91 *et seq.* The author provides statistics covering a number of countries illustrative of the incidence of crimes of violence as between the two sexes, as far as possible exclusive of cases of negligence and infanticide. Murder is the

crime against life most frequently committed by women; in the case of non-fatal crimes of violence, they most frequently commit the milder forms. Women are also often guilty of instigation and complicity but very seldom of wilful crimes requiring personal execution. According to the author this is due in part to physical weakness and in part to an aversion to executing a bloody crime themselves. Poison, and in recent times firearms, are often used in murder; for the use of poison in murder, *vide* further p. 105, where it is stated that, unlike formerly, it is now chiefly used by persons belonging to a low cultural level. Verkko concludes from his investigation that the criminality of women in crimes against life and physical integrity differs essentially from that of men. Particularly salient are the differences due to the fact that alcohol plays no part in female criminality, which therefore lacks the stamp of fortuity characteristic of many violent crimes by males. — Verkko's investigation also includes details of the *sex of the victims* in crimes against life, *vide* pp. 119 *et seq.* and the same author in SvJT 1945, pp. 470 *et seq.* — Further, Verkko has tried to demonstrate certain regularities in the proportions of the two sexes in crimes against life. The statistics tend in the first place to indicate the *static law* that the female rate is small in countries where such crimes are very frequent and vice versa and, secondly the *dynamic law* that a rise or a fall in the rate chiefly relates to the male rate, *op. cit.* of 1937, pp. 111 *et seq., cf.,* however, p. 117, note 1, where it is admitted that female criminality may be influenced by changes in the environment of women; the author's laws thus presuppose a stable, "protected" environment for women.

Vide further on the characteristics of female murderers *Kjærsgaard, op. cit.,* pp. 179—80, with references, *inter alia,* to the statistics of suicide showing that the characteristic female procedure is in conformity with that in crimes of murder (relatively infrequent use of bloody means).

As regards crimes of theft, the statistics show that female criminality largely takes the form of simple larceny (as opposed to house-breaking). A typically female form of theft is shoplifting, sometimes of a kleptomaniac character, *vide,* on the subject, *Kjærsgaard. op. cit.,* pp. 181 *et seq.*

Also in the case of *arson* has attention fallen particularly on female criminality. Opinions have varied, one school of thought

stressing the large proportion of women, in particular of girls of pubertal age, in crimes of arson, another denying any special frequency of female criminality in this field. *Bo Gerle,* Mordbrännare, Lund 1943, pp. 55 f., reveals the necessity of distinguishing between fraudulent and other arsons. In the case of the latter group, but in that only, do the statistics show the proportion of women in crimes of arson to be significantly in excess of their proportion in criminality in general.

Psychic anomalies in connection with the female sexual functions, in particular in the case of menstruation, pregnancy, childbirth and the climacteric, present special features of criminalistic importance.

Vide, in this connection, *Kjærsgaard, op. cit.,* p. 184 with literary references, *v. Hentig,* Fortpflanzungsphasen und Zurechnungsfähigkeit, MfK 1930, pp. 149 *et seq.*

With particular reference to crime in connection with the climacteric, *vide P. Dickmeiss,* On Female Criminality during the Climacteric, Festskrift for Helweg, 1946, pp. 217 *et seq.* The climacteric, according to the author, seems to be a more dangerous period than do menstruation and pregnancy. A relatively large proportion of the thefts investigated by the author and committed during the climacteric, proved to be kleptomaniac in character or to have the character of isolated acts of impulse.

Further, it should be noted that a more recent Finnish investigation of young women offenders has revealed a particularly high proportion of *abnormal* individuals among them (higher than in any other group of prisoners, except grave recidivists), as well as an *increased consumption of alcohol* by them, in a direct ratio to psychopathological features, vide NKÅ 1946—47, pp. 2 *et seq.*

On the Causes of the Lower Crime Rate of Women.

There are two principal schools of thought. The one offers a chiefly *biological,* the other a chiefly *sociological* explanation of the peculiarity of female criminality, more particularly its lower frequency. In the nature of things, there can be no question of an absolute either-or.

As far as the *biological factors* are concerned, there can be no doubt that the generally weaker physical strength of women must influence their criminality in various ways. Nor can there be any doubt that the special psychic anomalies connected with the female sexual functions may have a certain limited crimogenic importance. Further, it is obvious that the sexual functions of women and the motherhood function biologically induce a number of special social conditions and frictions which modify the forms and extent of female criminality, *cf.* on the typically female crimes. It would not be safe, however, to deduce general criminalistic consequences from the female psyche.

The school of thought which attributes the lower crime rate of women to *sociological factors* is a more realistic one. First in importance is the *greater environmental protection* enjoyed by women under present social conditions, where far more women than men are working chiefly in the home with none besides family responsibilities. Next comes the generally *higher degree of abstinence from alcohol,* which again to some extent is due to custom[1]), as will be seen in particular from *Verkko*'s investigation. Of the first importance too, is that more or less pronounced forms of *prostitution,* not being punishable in themselves, represent the equivalent of the male criminality against property. Whereas a young man who is tempted to provide an income, or to supplement one otherwise than by honest work, has no alternative to theft or other punishable acts, a woman in the same situation, and with the same disposition of character, may turn to the convenient way out of prostitution[2]).

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[1]) *Vide A. Ahto,* Om psykopati och alkoholmissbruk hos unga kvinnliga förbrytare, NKA 1946—47, pp. 2 *et seq.*

[2]) Concerning the problems associated with prostitution which are of criminological interest, special works should be consulted, *vide,* in particular, *Tage Kemp,* Prostitution, Copenhagen 1936, with bibliography; *Georg V. Bredmose,* Psychiatriske Undersøgelser af prostituerede Kvinder i København, Juristen 1938, pp. 293 *et seq.;* discussions in Danish Criminalistic Society 1937 on prostitution as a policial and social problem NKA 1937, pp. 127 *et seq., vide,* also, articles *loc. cit.,* pp. 267 *et seq.* and in Juristen 1941, pp. 349 *et seq.,* 537 *et seq.*

Evidence of the importance of social factors to the peculiar character of female criminality is found in variations in it in accordance with essential changes in the environmental protection of women. A sharp rise may particularly be expected in times of war, where large numbers of women leave their homes to enter upon an occupation, as it also may under more normal conditions when the employment and other living conditions of women are becoming more and more like those of men[1]).

44.
RACE AND NATIONALITY

Biologically determined criminology has attached much importance to *race* as a factor in crime. This point of view has culminated in the German national-socialist ideology. According to Handwörterbuch der Kriminologie, II, Berlin 1936, p. 454, race is the most important factor in regard to crimogenic dispositions. This assumption is a mere postulate. Even in their less extreme forms, however, the theories advanced of relationship between criminality and race are based on most problematic presuppositions. The very vagueness of the concept of race is an obstacle in the way of exact investigations. The demarcation of races with common hereditary features from nationalities or peoples with cultural, not biologically determined characteristics, gives rise to a variety of doubts. As particularly regards the European culture area, the statistical data underlying a comparative investigation are associated with national and geographical divisions containing a multiplicity of anthropological types and mixtures of races. Even if one disregards this fact and roughly allows different crimino-statistical fields to apply to areas with definite racial characteristics, international comparisons of criminality are subject to

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1) Concerning the increase in the female crime rate following the increasing participation of women in social life, *vide, e. g., Torsten Eriksson* in *Else Kleen et alii,* Fången, människan, straffet, Stockholm 1944, pp. 86 f.

such sources of error that they must generally be denied any value as evidence. In this connection the legislative differences in the incidence of prosecutions and in the structure and reliability of the criminal statistics must be indicated. Only in a few investigations of specific categories of crime have such sources of error been partly neutralised, *cf.* below on *Verkko*'s investigation of crimes of violence.

More reliable are the investigations confining themselves to comparisons between the criminality of different populations within the same *jurisdiction.* Actual racial comparisons within the same state or federal state have been undertaken, in particular in the United States of America where the criminality of negroes has often been compared with that of whites. Existing investigations, however, mostly relate to different nationality groups within the same state and to populations in different provinces of the same national state.

In none of these investigations has it been possible to separate the racial from cultural or environmental factors and such a separation will hardly ever be possible. The conclusions drawn from proven differences in the number and nature of crimes in regard to the importance of the racial or the environmental factor, as the case may be, will thus largely be a matter of opinion. As will be seen from what is stated below, the opinion of objective investigators in the United States of America, who are in the best position to assess the problem of race, is that primary importance should definitely be given to environmental factors.

International Investigations.

A number of more recent comparative investigations by *E. Hacker,* the Hungarian criminal statistician should be mentioned, *vide* MfK 1931, pp. 269 *et seq.,* 1935, pp. 10 *et seq.,* Revue internationale de droit pénal, 1936, and the work Kriminalstatistische und kriminalaetiologische Berichte I—III, Miskolc, Hungary 1939—40. In these works the author tries to

incorporate the statistical data from the different countries under a common standard by relating convictions to every 100,000 of the population above the minimum age of criminal responsibility. As examples of the incorrectness of the results derived from this work with the criminal statistics of foreign countries, it will suffice to mention that in Hacker's table in MfK 1931, p. 270, Sweden has a crime rate 10 times as high as that of Denmark for the same population, and that crimes of violence in Belgium are 20 times as numerous as in Denmark. It is obvious that such data are incommensurable. Nor are Hacker's comments on the comparison of figures of total criminality in all the countries of the world very informative, *vide, e. g., op. cit.,* p. 273: "The more phlegmatic temperament, the composure and placidity connected with the colder climate would make for the lower crime rate in Denmark, England and Norway. On the other hand, the more violent temper of the population would make for the generally higher crime rate in France, Italy and Hungary". How to reconcile this view with the fact that, according to the same statistics, Finland has the highest total crime rate of all countries, while Bulgaria has a very low rate, is a mystery which Hacker leaves unravelled.

Of *Veli Verkko*'s crimino-statistical works, his treatise Om könet som kriminalitetsfaktor vid våldsbrott, NTfS 1937, pp. 91 *et seq.,* is of particular interest in this connection, as it includes statistical information from a great many countries illustrating the incidence of crimes of violence for the two sexes, *cf.* above p. 276. Various differences from country to country in the proportion of women in the total number of intentional crimes against life (other than infanticide) are stressed (pp. 101—02): The proportion of women criminals is negligible in Finland, Russia (prior to the first world war), in the Balkan States and in the South Roman countries, whereas it is considerably larger in Scandinavia and in the Western and Central European countries. From these findings, which are based on a statistically sounder foundation than those of Hacker, Verkko draws no conclusions as to the dispositions traceable to race or nationality causing the differences.

Investigations of Different Nationalities and Groups within the Same or Connected Jurisdictions.

Investigations of the crime rate of different nationalities within the same jurisdiction have been conducted in Europe by *von Mayr* in regard to the nationalities of Hungary, by *Weinberg* in regard to those of Czarist Russia, by *Wadler* in respect of the Balkan populations, and by *Veli Verkko*, as regards the Swedish and Finnish population during the imperial unity between Sweden and Finland[1]).

Only the results of *Verkko's* statistical data are worth outlining here: the number of crimes against life, other than infanticide, during the first period for which crimino-statistical data are at all available, *viz.* from 1754 to 1806, was 2 to 3½ times as large in the Finnish part of the empire, as in the Swedish. Verkko attributes this difference primarily to the less alcoholic temperance in the Finnish than in the Swedish population[2]).

The investigations into the varying frequency of particular categories of crime in different parts of Germany also suggest the importance of alcohol[3]). These investigations showed, *inter alia,* a very high frequency of aggravated assaults in the eastern provinces of Prussia, in south-eastern Bavaria and in Pfalz. These areas are, according to Aschaffenburg, all centres of alcohol consumption: in the eastern part schnapps, in Bavaria beer and in Pfalz wine. *Exner,* however, is not content with so simple an explanation. The crime rate inside Germany is found to be highest to the south and east, and lowest to the north-west, and Exner considers that this difference must be due to racial differences, more particularly to the less pronounced criminal disposition of the Nordic race[4]). The racial peculiarities supposed to

[1]) Concerning *von Mayr's* investigation, *vide* account by *Aschaffenburg,* Das Verbrechen, 3 Aufl., Heidelberg 1933, pp. 40 f., *Exner,* Kriminalbiologie, Hamburg 1939, pp. 47 *et seq.*

[2]) *Vide,* further, *Verkko,* Brottslighet och folklynne, SvJT 1945, pp. 470 *et seq.*

[3]) *Aschaffenburg, op. cit.,* pp. 41 *et seq.*

[4]) *Exner, op. cit.,* pp. 62 *et seq.*

favour the Nordic race are described by Exner as "phlegmatic temperament, self-command, cool intellect, self-respect, foresight", etc.

Further, the criminality of *Jews* in European countries has been investigated. The German criminal statistics for 1892—1901 showed a lower total crime rate for Jews than for other confessions; in some types of offence, in particular fraud, however, the Jewish crime rate was the highest. It has been disputed whether the differences revealed by statistics should be attributed to peculiarities inherent in the race, or to occupations. Jews, being mostly engaged in commercial occupations, are thus exposed to a special criminal risk in regard to crimes associated with such occupations, but on the other hand it has been argued that the very choice of occupation depends, to some extent, on racial dispositions. This argument, in turn, has been answered by a reference to the fact that Jewish criminals in earlier centuries were chiefly found among vagabonds and gangs of robbers, so that Jewish criminality has in the course of time varied according to the Jews' changing living conditions. Anyhow, there is no evidence of it being due to racial peculiarities.

Vide, concerning the question, in particular *F. v. Liszt,* Das Problem der Kriminalität der Juden. Giessener Festschrift 1907; *J. R. B. de Roos,* Über die Kriminalität der Juden, MfK 1909—10, pp. 193 *et seq.; R. Wassermann,* Die Kriminalität der Juden in Deutschland in den letzten 25 Jahren (1882—1906), MfK 1909—10, pp. 609 *et seq.; vide,* also, *Gunnar Dahlberg,* Arv og Race, Copenhagen 1947, pp. 231 *et seq.*

Further, mention should be made of the assertions put forward, in particular in Germany, to the effect that the *gipsy* population has such racial dispositions to criminality and anti-social conduct that, broadly speaking, it is insusceptible to social environmental influence[1]). As mentioned above, the investigation conducted by

[1]) *Vide,* in particular, *Ritter,* Ein Menschenschlag, Leipzig 1937, and a number of other publications, quoted in *Erik D. Bartels and Gudrun Brun,* Gipsies in Denmark, Copenhagen 1943, pp. 177—78.

Bartels and *Brun* of Danish gipsy families does not confirm such assertions. These families showed surprisingly little criminality, though a considerable, if not excessive, need of relief. However, the authors assume the existence of certain biologically determined characteristics in the psyche of the gipsies, in particular "a complete lack of inclination and capacity to adapt themselves to normal regulated conditions, which is particularly manifest in their reluctance to settle down in any one place and to engage in regular work"[1]).

As regards the numerous American investigations into the importance of differences of race and nationality in crime, the bibliographies of American criminological text-books must be consulted. Only the results, as they take shape now, will be given here in the light of some of the most recent and authoritative surveys.

The criminality of negroes in the United States of America. — Donald R. Taft, Criminology, N. Y. 1945, pp. 88 *et seq.*, contains statistical data showing a considerably higher crime rate for negroes than for white persons in respect of almost all major crimes. However, like *Sellin, Sutherland, Myrdal* and other unbiassed observers, Taft stresses the inadequacy of the available statistics as a measure. Negroes are more liable to be suspected than are white persons, more liable to be arrested and convicted. Besides, there are flagrant errors in the statistics to the disadvantage of the negroes, *vide* Sutherland, p. 121.

Though it must be assumed that, after correction is made for the sources of error, there is an excess of criminality among negroes, there is no evidence, however, that it is due to the biological factor of race. "The overwhelming evidence of cultural factors argues for the nonexistence or unimportance of the biological". (Taft p. 91).

Environmental handicaps of the negroes include: poorer eco-

1) *op. cit.*, p. 170.

nomic conditions, more broken homes, inferior conditions of school and education, less legal protection and other cultural discrimination.

Vide, concerning the criminality of negroes, also: *Thorsten Sellin,* The Negro Criminal, Annals of Amer. Acad. of Political and Social Science, 1928, pp. 52 *et seq.; Hans von Hentig,* The Criminality of the Negro, Journ. of Crim. Law and Criminology, XXX, 1940, pp. 662 *et seq.; Gunnar Myrdal,* An American Dilemma. The Negro Problem and Democracy. I—II. New York 1944, pp. 523—73.

As for criminality among *Red Indians* in the United States of America, *vide* an interesting treatise by *Hans von Hentig* in Journ. of Crim. Law and Criminology, XXXVI, 1945, pp. 75 *et seq.*

The criminality of immigrants in the United States of America. — Widespread propaganda in the United States has repressed immigration in general or from particular countries in view of the alleged high criminality of immigrants, as compared with the old stocks of white Americans; in this connection it has often been asserted that special criminal tendencies were inherent in particular nationalities with a relatively high crime rate in the United States of America, including especially Greeks and Italians.

The problem has been thoroughly examined by various official commissions and by numerous authors. For particulars reference must here, too, be made to American criminological text books. The main result of the investigations is that there can be no question of an excess of criminality among the immigrants of the first generation, but that there is among their children. The unfavourable differences making themselves felt in part between immigrants and Americans of native parentage, in part between immigrants from different countries, may all be accounted for by the influence of external conditions, including national traditions.

A report on the years 1908—11 published by the *Immigration Commission* contains, *inter alia,* the following conclusions, quoted from *Taft,* Criminology, New York 1945, p. 103:

1. The statistics indicate that immigrants are less prone to commit crimes than are native Americans.

2. The American-born children of immigrants commit more crimes than do the children of natives.

3. Immigration seems not to have increased and perhaps to have decreased the volume of crime.

4. Immigration, however, appears to have affected the character of crime and to have increased crimes of personal violence, crimes against public policy and, probably, crimes against chastity, but not gainful offences.

5. Some groups and nationalities seem particularly involved in certain types of crime. *Southern Europeans* in general and *Italians* in particular excel in crimes of violence, as do Italians in kidnapping, rape and blackmail. The *Irish* and *Scotch* are inclined to drunkenness, while the *French* and *Russians* are disproportionately involved in prostitution.

6. However, the nature of crime changes in the second generation with a tendency for children to Americanise their behaviour.

The principal results of a second official report submitted in 1931 by the *National Commission on Law Observance and Enforcement* point in the same direction. They indicate that the foreign-born commit fewer crimes per 1,000 of the population of the same age and sex than do the native-born and that they commit fewer grave crimes *per capita* than do the native-born. The statistical information here is not considered a sufficient basis for definite assumptions concerning the criminality of the second generation, or for characterising particular nationalities as excessively criminal. On the other hand, it shows the Japanese to be in a particularly favourable position. As regards the criminality of the second generation, however, *Clifford Shaw* has provided information in the same Commission report which he considers proves that children of foreign parentage have a considerably higher crime rate than children of native parentage, *vide Taft, op. cit* pp. 104—05.

The social and cultural conditions of the immigrants are such that it is surprising that their criminality does not by far exceed

As first regards criminality in belligerent countries during the war, a number of sets of statistics from different countries, *e. g.* from Germany and Austria during the first world war, from Finland during the war winter of 1939—40 and from the United States during the second world war, show a *decline in criminality* in respect of most types of crime during the *early months of war.* This has been attributed to the national exaltation and spirit of unity and public spirit created by the war which are supposed to affect otherwise anti-social groups[1]). Others, however, have questioned or challenged this explanation[2]). The decline in the statistical figures referred to seems susceptible of sufficient explanation by more obvious factors, including in particular that the war involves the calling up of large groups of the adult male population, who are thus subjected to military discipline and control and whose criminality is generally withdrawn from the general criminal statistics; further, that the consumption of alcohol by the civil population is often restricted; besides, there will be an increased demand for manpower with good wages in the war industry, etc.

At *later stages of the war,* especially if it runs an unlucky course, experience gained from the wars of this century shows that the crime rate of the civil population will rise sharply[3]), particularly among women and young persons. Crimes against property will swell most, whereas crimes of violence will tend

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[1]) *Vide,* among others, *Exner, op. cit., Honkasalo* in NTfS 1943, p. 37.

[2]) *Vide,* among others, *Hans von Hentig,* Crime, New York 1947, pp. 330 *et seq.*

[3]) It seems to have been different under the war conditions of earlier times with less extensive effects on the civil population, *vide,* concerning the short Dano-German wars in 1849 and 1864, Statistisk Tabelværk containing detailed criminal tables for the Kingdom of Denmark 1841—1855, according to which the crime rate in this country was particularly low in the years of war. According to the comments attached to the tables it is assumed to be a general experience that the crime rate falls in belligerent countries and this is accounted for especially by the absorption of the anti-social elements involved by the large gatherings of troops; *vide,* further, *Karl O. Christiansen* in Politiet, 8th Vol., 1946, pp. 107 *et seq.*

to remain at a comparatively low level. The explanations of this development are obvious. During the absence of the fathers at the front and of the mothers at munition factories and other occupations outside the home, the children are left to themselves. The women run up against conflicts and maladjustments under the new employment conditions. At the same time there will be a shortage of goods and higher prices of the goods to be had and thus greater temptations to theft. War conditions involve a host of orders and restrictions with attending sanctions relating to the civil population. In addition to such more exact factors, account must be taken of the general demoralisation attendant on a war which drags on and spreads more and more misery, distress and social maladjustments.

If the crimes of violence, according to the investigations conducted, show no tendency to rise, it is chiefly due to the fact that the large majority of men in the young age groups are at the front. This fact does not similarly affect crimes against property, among which it is, as mentioned before, the crime of larceny that increases most. In the light of a certain limited experience it has formerly been held that only simple larceny showed such relation to environmental factors, as opposed to grand larceny (burglary and the like) and other forms of crimes against property, more particularly fraud and embezzlement, which did not show anything like the increase of simple larceny. Later experience, however, in particular as concerns post-war criminality, hardly permits of maintaining such distinctions. Experience also shows that persons who slip into dishonest ways prompted by the special war conditions are liable to develop from occasional to persistent offenders. The existence of an environmental criminality marked by its nature or by type of offender is thus hardly borne out by the experience of war criminality.

As far as *post-war criminality* is concerned, the existing investigations show tremendous rises, in its extent and intensity

alike, particularly among young persons and in countries which have been defeated or suffered serious devastation. It may be questioned if this is a pure after-effect of the war or if it is due to crises setting in after the collapse or the cessation of hostilities. Anyway, there is a close relationship between such crises and the war. It is chiefly the same factors that make themselves felt as were mentioned with reference to criminality during the later stages of the war: general demoralisation, consequences of adverse home conditions, shortage of goods, restrictions, etc. To this must be added the consequences, in intensified degree as compared with war time, of the migration of large groups of population from one environment to another, practiced to an unprecedented extent during and after the last world war when political disturbances led to revolution, inflation and other social and economic revolutions. It is a disputed question whether the minds of the soldiers became coarsened by their war experiences, predisposing them to commit, in particular, homicide and other crimes of violence. A development in this direction naturally suggests itself and definitely proved individual cases confirm this assumption[1]). Anyway, a considerable number of returning soldiers and groups of the civil populations will have suffered psychical deterioration attended by less resisting power against criminal promptings. And if firearms have to a large extent remained in private possession, the risk of criminal actions of the most serious nature will be increased.

Vide, concerning the above, literary references on page 298, note 1. A single quotation from the figures of the existing investigations will suffice here by way of illustration. After the armi-

[1]) *Vide Kankeleit,* Heldentum und Verbrechen, MfK 1925, pp. 193 *et seq.* — *Cf.,* on the other hand, *Michael Hakeem,* Journal of Criminal Law and Criminology, XXXVII, 1946, pp. 120 *et seq.,* who turns against the popular view according to which participation in war more generally predisposes to especially aggressive crimes of violence, more particularly homicides of an impulsive nature, and, in general, leads to a disregard of human life; according to the author, there is no conclusive evidence of this assumption.

stice in Finland in 1944 the crime rate rose sharply, by approximately 70 per cent. Crimes against the person increased by 20 per cent., against property by 116 per cent., against alcohol legislation by 220 per cent., *vide Veli Verkko,* NKÅ 1944—45, pp. 357 *et seq.*

As regards the *neutral countries* whose economy and other social conditions are affected by war, criminal trends reminiscent in several respects of the conditions of the belligerent countries have been demonstrated in *the years during and after the first world war.* However, the conditions here are even more incongruous, favourable effects (for example in consequence of alcohol restrictions, increasing employment, etc.) existing side by side with unfavourable effects. In Denmark there was a very considerable increase of criminality during the latter years of the 1914—18 war, which fell to the normal level only a few years after the cessation of hostilities. The increase related to all age groups, but was highest in respect of the 18 to 20 year-olds whose criminality rose by 120 per cent[1]).

During the *second world war* there was a sharp rise in the crime rate after the *direct inclusion of Denmark in the hostilities.* As early as in 1942 it was almost doubled. To the figures for these years, however, must be added the large number of traitors who, after the end of the occupation, were sentenced for crimes committed during the occupation.

No detailed account of the trend of crime during and after the years of occupation, nor an analysis of the factors which must be assumed to have been operative here, can be given in this exposition. These questions are now under review, not only in this country, but in a number of the occupied countries. The trends and causal relationships are supposed to be very complex and varied from country to country.

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[1]) *Karl O. Christiansen, loc. cit.* — *Vide,* concerning the conditions in Norway and Sweden, the article by *Otto Grönlund* referred to above on page 298, note 1.

As far as Denmark is concerned, a peculiar circumstance of great criminalistic interest arose, *viz.* the fact that for some length of time—from September 1944, when the Germans deported the Danish police, until the end of the occupation on May 5 1945—the country was deprived of her normal police authorities, *vide,* on the subject, *Jørgen Trolle's* account, Syv Maaneder uden Politi (Seven Months with no Police), Copenhagen 1946. The period is characterised by a considerable rise in thefts and robberies, black-market traffic, etc., and, in general, in the majority of crimes through which the perpetrator could have hopes of concealing his identity, but not in contraventions of regulations (traffic regulations, etc.). Nor did murders of an unpolitical nature or sexual crimes show any great rise. It should be added that the "policeless" period affords no pure example of the extent to which criminality is influenced by the absence of prosecutions and punishments. About a month after the removal of the ordinary police, a local guard force with police authority was set up; similarly, private defence organisations were established, the functions of the public prosecutor were extended and the courts imposed aggravated penalties for the crimes which were tried. Altogether, however, the enforcement of law was impaired to an unprecedented extent and the available evidence leaves no doubt of the disastrous consequences.

Trolle mentions that the daily number of notifications of thefts to the insurance companies in the period immediately after September 1944 rose to three times the number for 1943, subsequently to fall to the double in the course of three to four weeks; the value of the losses rose even more. During the last few months of the war more than 3,000 notifications per month were filed with the Guard Force of Copenhagen. In April 1945 the number of criminal notifications rose to 5,000. *Vide,* concerning the development, also *Bernt Hjejle* in SvJT 1945, pp. 505 *et seq.,* quoting a statistical analysis made by the Danish Burglary Insurance Association.

PART IV:

THE DEVELOPMENT OF PERSONALITY UNDER THE INFLUENCE OF CLOSER ENVIRONMENTAL FACTORS

INTRODUCTION

While the preceding part of this work has dealt with a number of crimino-sociological factors where the starting-point has been crime as a social mass phenomenon, this part will be concerned with a group of environmental factors associated with *the immediate surroundings of the individual offender.* They are best illustrated through investigations starting from small groups of offenders or individual case studies. Such investigations are, further, to some extent characterised by their relation to a course of development; they trace the living conditions of the offender from his birth, through childhood and further on, while pointing out the factors assumed to be interrelated with his criminal behaviour.

Any attempt to dissolve the dynamics of factors conditioning the individual criminal career into isolated component parts must of necessity be highly theoretical in character; in practice the factors are inextricably interwoven. If the following exposition, as is general and, I think, inevitable in criminological analyses, treats of and evaluates separately individual typical factors: home, school, economic conditions, etc., it should always be borne in mind that the separation of such factors into independent units is artificial and is capable of providing only provisional data. The weight attributable to the individual factor in the concrete case will always be relative, depending on the contribution or counter-action of other, exogenous or endogenous, factors.

CONDITIONS IN CHILDHOOD AND EARLY ADOLESCENCE

50.
GENERAL

It is obvious that the conditions in which a child grows up are of crucial importance to his physical and mental development and, consequently, for his social adjustment. This truism, however, covers many questionable points that make their appearance as soon as the importance of the particular elements of the childhood environment comes to be considered. Among the many general trends that make themselves felt are an economic and a psychological theory. While the former, the chief exponent of which in criminology is *W. A. Bonger,* traces the deviation of the child and young person to poverty in the home, social inequality and other adverse economic conditions, the psychologico-psychiatric conception, especially with authors of the psycho-analytical school, tends to make the mental conflicts of the child or the non-satisfaction of its fundamental needs (security, appreciation, free display of personality, etc.) the most important cause of unsound development, maladjustment and criminality. The advocates of both trends agree to trace the formative influences to an early stage in the child's life[1]).

The most important group of environmental factors in childhood are *the family* or *the home.* In the criminology of to-day it is agreed that this group of factors is a unity of primary importance for the formation of social or anti-social conduct. In all essentials there is also agreement as to what elements should be given weight in classifying homes as "good" and "bad", etc., but a standardisation of definite methods of evaluating such elements meets with considerable difficulties[2]).

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[1]) *Vide,* from most recent literature, in particular *John Bowlby,* Forty-four Juvenile Thieves, London 1946; *D. H. Stott,* Delinquency and Human Nature, Dunfermline, Fife, 1950.

[2]) *Vide,* concerning various methods of evaluation employed in America, *Sutherland,* Principles of Criminology, New York 1947, pp. 153 *et seq.*

Among family and home conditions, the following will be primarily discussed in the sequel: 1) atypical family situation due to illegitimate birth, 2) placing outside the home, 3) other atypical family situations, including in particular broken homes, 4) inter-family relations, 5) the economic conditions of the home.

51.
ILLEGITIMATE BIRTH

Countless investigations of criminal groups ascertain the incidence of illegitimate birth in such groups to be far in excess of that of control-groups of non-criminal persons.

An example occurs in northern European literature where *David Lund,* Über die Ursachen der Jugendasozialität, Uppsala 1918, p. 41, found 201 of 849 vicious or delinquent Swedish children, or 23.7 per cent., to have been born out of wedlock, wheras in a control-group of 815 boys and girls the percentage was only 11.3.; thus only 92, or less than half had been born out of wedlock. The difference is particularly great in respect of the girls, the figure of those born out of wedlock being 29.2 per cent. and 10.4 per cent. respectively, or three times as many in the criminal as in the non-criminal group.

As for English investigations, *vide, e. g., Carr-Saunders, Mannheim and Rhodes,* Young Offenders, Cambridge 1942, p. 97, who found more than twice as many born out of wedlock in the criminal group as in the control-group.

A survey of a great number of German investigations is given by *Exner,* Kriminalbiologie, Hamburg 1939, pp. 280—81. The investigations all show an excess of illegitimate births in the criminal groups of recidivists, *vide* further, *e. g., Karl Schnell,* Anlage und Umwelt bei 500 Rückfallsverbrechern, Kriminalistische Abhandlungen XXII, Leipzig 1935, pp. 54 f.

In their investigations of young American offenders the *Gluecks,* on the other hand, have found no large number of illegitimates, *vide* One Thousand Juvenile Delinquents, Cambridge, United States of America, 1939, p. 86, and the criminological textbooks

in the United States seem, in general, to attach no great importance to this factor.

In Denmark no intensive investigations of this question exist. *Chr. Geill,* Kriminalantropologiske Studier over danske Forbrydere, 1906, states that among 950 prisoners born in Copenhagen 10 per cent. were born out of wedlock, and among 895 prisoners born outside Copenhagen the percentage of illegitimacy was 8. Geill compares these figures with the general statistics concerning the number of illegitimate births and concludes that the percentage among criminals from Copenhagen is below the average. Account should be taken, however, of the higher rate of infant mortality among illegitimate children. Thus it has been estimated in Germany that the annual proportion of illegitimate births is 12 per cent., but that the proportion of illegitimate children in the population is no more than 6 to 7 per cent., *vide Karl Schnell, loc. cit.* — *Vide,* concerning the number of illegitimate births in Denmark, *K. Vedel-Petersen,* Danmarks Statistik, 3rd ed., 1946, p. 40 (the figure here is 10 to 11 per cent. of the total number of births. In the five-year period 1936—40 the children born out of wedlock in Copenhagen constituted 15.0 per cent., in the provincial towns 9.2 per cent. and in the country 5.9 per cent. of the total number of children born, recorded by place of birth).

The question of a correlation between illegitimate birth and crime has, also, been illustrated through investigations comparing the criminality of groups of persons born in and out of wedlock, but otherwise as far as possible of the same type (same sex, age, social status, etc.). A higher crime rate and, more particularly, a higher rate of recidivism has been found here among the illegitimates[1]).

As possible causes of the higher criminal risk which, according to the above, seems to be associated with illegitimate birth are the following: Under existing social conditions the unmarried mothers include a relatively large number of physically and mentally inferior women. According to an investigation conducted

[1]) *Vide* recount of German investigations by *David Lund, op. cit.,* p. 42, and *Exner, op. cit.,* p. 280. — *Infra,* p. 398.

by the Swiss psychiatrist, *Hans Binder,* psychic anomalies were found to be five to six times as frequent among 350 unmarried mothers as in the general population[1]). Among the fathers, too, there was found to be an excess of mental deviations. Thus, there seems to be a biological selection of heredity in a negative direction. To this must be added that the years of childhood and early adolescence are particularly threatened by adverse environmental conditions, in part directly and indirectly arising from economic factors, in part because of the atypical family situation, whether it involves growing up at home with a step-father or with no father or being placed in a foster home or children's home, in part, finally, on account of social prejudice and the very atmosphere of undesiredness that, with the mother as the centre, may surround the child, and, consciously and unconsciously, affect its mind.

52.
INSTITUTIONAL AND FOSTER CHILDREN

It is all but generally agreed in sociologically determined criminology that the growing up of children in the home under normal good family conditions is one of the most important, if not *the* most important source of social adjustment, and that the growing up outside a normal family environment presents a great risk of deficient social adjustment. It is recognised that the existing family and family education system is no institution springing from the natural order of things, but is due to a combination of social factors, and that this system is subject to a great many defects traceable to economic and moral circumstances. However, the view held by certain groups, in particular the earlier socialistic theorists, according to which the civil family institution is a drag upon wholesome education and should largely be replaced by collective, State-organised child education outside private

1) *Hans Binder,* Die uneheliche Mutterschaft, Bern 1941, p. 367.

homes has met with no response in modern European and American criminology. It should be noted, however, that American criminology only takes account of communities of the existing basic type, not of purely socialist communities with attending new control norms and institutions.

A large number of Danish and foreign investigations show an excess of institutional children in criminal groups, more particularly among recidivists.

Stürup and *Christiansen,* 335 Statsfængselsfanger (unprinted) state that well over one-fourth of the prisoners have been public charges in childhood. In respect of robbers and the polycriminals, the figure amounts to well over 42 per cent.

Sutherland, Principles of Criminology, New York 1947, pp. 169—70, mentions comparative American investigations showing a large proportion of institutional children among criminals (13.3 per cent. as against 1.8 per cent. in the control-group).

Similarly, investigations of institutional children show them to have a higher crime rate than children reared in private homes.

By way of example may be mentioned the investigations recounted by Sutherland, op. cit., p. 170, according to which 34 per cent. of foster children who had been placed in orphanages had not made satisfactory adjustments, as opposed to only 18 per cent. of groups of foster children not so placed.—There is no evidence that foster children are more inclined towards delinquency than are other children. The one solid fact is that children who are placed in a home at an early age adjust more satisfactorily than those placed at a later age.

Such figures, however, do not automatically imply that education in children's homes, homes for young persons or other educational homes must make for social maladjustment to a greater extent than does education by parents or foster parents.

It should be borne in mind that a substantial number of the children who are brought up in institutions have been placed there because of maladjustments in the home, and that the whole of the clientèle, those who have been institutionalised owing to maladjustment as well as those who have been removed from their homes owing to environmental conditions, generally belong to a very poor social class with a comparatively high incidence of mental defects.

The Statistical Report of the National Board of Child Welfare for the years 1938—40, Copenhagen 1941, contains an interesting investigation by *Henning Friis* concerning environmental conditions and the causes of removal in respect of 900 children who have been removed from their homes in the year 1938 under sect. 130, subsect. 1, of the Public Assistance Act. The subject-matter is divided into two groups: The A group where the removal of the child is due to his own maladjustment, and the B group where environmental conditions alone have led to his or her removal. The A group constitutes three-fourths of the cases. The average age of the children removed in the A group was 14.2, in the B group 7.1. Thus, intervention takes place at a rather late stage in the case of character difficulties (more than half of the children of the A group were not removed until after their fifteenth year, *i. e.* after having attained the minimum age of criminal responsibility). The cause of removal in the A group was in 75 per cent. of the cases a concrete offence (or several). As far as the boys were concerned, 60 per cent. of the offences were offences against property, more particularly pilfering (in the age group from seven to twelve years) and thefts.

As regards the family background and other environmental conditions of the children, the report gives, *inter alia,* the following data:

Twenty-five or thirty per cent., were illegitimate, as against 10 per cent of the general population.—There was a high incidence of defective family conditions, more particularly cases of the mother not cohabiting with the father of the child and of the child not living with the cohabiting parents. It is noteworthy that there was a higher frequency of staying with a step-father or step-mother in the A group than in the B group and that

this was the case also in respect of placing in children's home, etc. (Report, p. 17).—Income and public relief conditions were on a much below average level in the homes of these children and the same was true of the housing conditions. There were comparatively many removals from homes with large families, in particular in the B group. Among the fathers there was an excess of unskilled workers, as compared with the general population.—The proportion of mothers working outside the home was far in excess of that of mothers in general.—Of all of the 900 children covered by the investigation 21 per cent. were of subnormal intelligence to a greater or less degree (in the A group 29 per cent., *viz.* 25 per cent. of the boys and 33 per cent. of the girls)[1]).

Though it must thus be recognised that the educational homes have an inferior clientele and that one cannot evaluate their activities simply by comparing the criminality of their ex-residents with the criminality of the general population, it should be stressed, on the other hand, that the more or less isolated, specific environments of educational homes afford special possibilities of influence in a good as well as in a bad direction. Intensive investigations are required here to trace the importance of the adverse influences.

Such an investigation, in respect of children from ordinary children's homes, has recently been conducted by *Karen Margrethe Simonsen,* Examination of Children from Children's Homes and Day-Nurseries, Copenhagen 1947. The influence of the environmental conditions of the homes caring for children on their psychic development is examined in this work. Children from the children's homes it is concluded, as compared with the day-nursery children (who only stay for part of the day outside their own homes), show a less spontaneous mental productivity and a somewhat stronger feeling of authority. This, too, is due to the children's homes being very much isolated environments with a general shortage of adult personnel.

Another source of information on the importance of growing up outside the home in the causation of crime is *the time of the*

[1]) *Supra* p. 85 concerning intelligence testing of school children in the county of Holbæk and in Esbjerg.

offender's leaving his home. Many investigations have shown that breaches with the home and leaving it at an early age are factors of high incidence in groups of (later) criminals. Though the conclusion cannot be drawn that the growing up outside the home has been a causal factor in his criminality, since the breach with the home and the criminality may both be signs of maladjustment, it goes without saying that the unregulated and free existence often attending early emancipation from the home favours the development of criminal propensities.

Among available sources of information should be mentioned *Glueck,* Five Hundred Criminal Careers, New York 1939, pp. 124 *et seq.,* which gives a table concerning age at the first serious breach with the home and its cause. Only 18.5 per cent. of the subjects had not left their parental homes prior to their first conviction. Of the others one-half had left their homes prior to or at the age of 14. The average age for leaving the home was 15 years.

53.
BROKEN HOMES

Criminological attention has long been directed towards the importance of *broken homes* in the causation of crime, in particular homes where one of the parents is dead or where the parents do not live together owing to divorce, separation or otherwise. Such family situations may be ranged under a larger group of factors: defective or atypical family conditions including all cases where the composition of the family deviates from the normal. A normal or typical family situation is thus one where the family is composed of husband and wife, being the parents of the child or children concerned, and where the children are living at home. The atypical families may be classified in various ways, such as: 1) normal family plus other persons, 2) families where one of the parents is absent and not replaced by somebody else, 3) families with a step-father or a step-mother, 4) families of

other atypical composition, for example with grandparents or more remote relatives in charge of the upbringing of the children. A distinction may also be made according as the household is in the hands of two persons of different sex (man and wife, man and mistress, uncle and aunt, etc.) or of but one person, such distinction being of some importance for the education of the children. Whatever classification be employed, the greatest interest is centred in the group of broken homes and this group will therefore be discussed separately here.

It is widely held that broken homes present a considerable risk of delinquency for the children and that, in particular, the separation or divorce of the parents critically affects the development of the children. For an example of this general view reference may be made to the statements by *Eivind Berggrav*[1]), who found from his experience of work with prisoners that, though their homes may be bad homes, they are generally closely attached to them, and that their development has been greatly influenced by whether the parents were living together or were divorced, divorce having a much more disturbing influence on the mind of the child than disagreements in the home.

This view, however, is by no means unchallenged *cf.* further below on the importance of a bad atmosphere in "unbroken" homes. Countless statistical investigations exist and they generally show a high rate of broken homes in respect of criminals, but many or perhaps the majority of such investigations suffer from the absence of adequate investigations of control-groups, and where such investigations have been conducted, the result is less conclusive, *cf.* the investigation by *Clifford Shaw,* referred to below, which finds that broken homes are not a significant factor in crime. Though, in conformity with the majority of the existing investigations, it must be assumed that divorce etc., is found in more than a fair proportion of the parents of offenders,

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[1]) Fangens sjel — og vår egen, 4th ed., Oslo 1929.

this is of course no evidence whatever of divorce or other separation of the parents being *more* fatal for the children than is their growing up in a home with bad relations between the parents. Statistical analyses, show, at any rate, an extremely high rate of such factors in the home conditions of subsequent offenders.

No investigations of broken homes in relation to the past history of criminals, compared with adequate control-groups, have so far been conducted in Denmark.

As regards more recent English investigations, reference may be made to *Carr-Saunders, Mannheim* and *Rhodes,* Young Offenders, Cambridge 1942, p. 62, according to which the rate of broken homes in the criminal group is far in excess of that of the control-group (London: 25.6 per cent., as against 13.0 per cent.; provincial towns: 31.5 per cent., as against 18.6 per cent.). —*Vide* also, *Cyril Burt,* The Young Delinquent, London 1945, pp. 93—95, on defective family relationships, *cf.* the table on page 53, according to which such relationships, including broken homes, were more than twice as frequent in the group of criminals as in the non-criminal control group (57.9 per cent. and 25.7 per cent. respectively); however, broken homes are here coupled with other family defects in such a way as to prevent a comparison of these statistics with other findings dealing separately with broken homes.

German investigations in regard to broken homes are comparatively few. The interest has, in particular, centred upon the importance of the *death* of parents, *cf. Kerscher,* Verbrechen und Verwaisung, Kriminalistische Abhandlungen, XXIX, demonstrating a large excess of "frühverwaiste" (persons who, prior to the 16th year, have lost one or both of their parents by death) among criminals (and prostitutes, etc.) and more especially among recidivists. — However, *Exner, op. cit.,* p. 276, mentions an investigation by *E. Kultze,* Zeitschrift für Kinderforschung, Vol. 42, 1934, pp. 45 *et seq.,* who has studied the family conditions of 2,000 young public charges in Wuppertal. Of these no less than 62 per cent. lived in "incomplete family conditions", while the corresponding rate for young persons in general is supposed, according to available statistical data, to be about one-half. Under incomplete family conditions are included illegitimate

birth, father dead, mother dead, both parents dead, and parents divorced. The comparison with young persons in general showed a particularly great difference in the case of divorce (26.1 per cent. as against 6.2 per cent.).

The most numerous and the most intensive investigations on this subject have been conducted in the *United States of America.* Reference may be made to surveys of the vast literature by *Sutherland* Principles of Criminology, New York 1947, pp. 158 *et seq.,* and to other criminological text-books.

An investigation which does not lay such strong emphasis on the criminological relevancy of the broken home is a work by *Clifford R. Shaw and Henry D. McKay,* Social Factors in Juvenile Delinquency, Report of the National Commission on Law Observance and Enforcement, Part IV, Washington 1931, which is characterised by *Sutherland, op. cit.,* p. 159, as "the most careful comparison of homes in this respect" and which seems to indicate that the question is more complicated than is generally assumed. According to this investigation the rate of broken homes varies considerably in different national and racial groups, and in groups of children at different ages, etc. Where criminal children are compared with an equal number of school children of the same age and national composition, there is no great difference, according to Shaw and McKay, in regard to the rate of broken homes (the figures are 42.5 per cent. and 36.1 per cent. respectively *i. e.* a ratio of 1.18 to 1). The same result is arrived at by *William C. Kvaraceus,* Delinquency and the School, New York 1945, pp. 72 *et seq.:* Of 748 delinquent children 33.4 per cent. came from broken homes (30 per cent. boys and 42.7 per cent. girls); the control group from schools in particularly unfavourable areas showed the rate of 37 per cent.

An investigation of delinquent girls in Chicago according to the same method, conducted by *Margaret Hodgkiss* in 1933, showed a ratio of 1.49 to 1, which is more significant. This deviation may be due to the smaller number of cases included in the latter investigation, but may also be taken as confirmation of the observation, also made by others, that the influence of broken homes (and defective family conditions in general) is probably more injurious to girls than to boys, cf. *Sutherland,* p. 159.

54.
ECONOMIC CONDITIONS OF THE HOME

How to define *what is designated as the economic conditions of the home* is very much a matter of judgment. It is not expedient to place the sole emphasis on income conditions. Account should also be taken of factors which, in general, are directly connected with such conditions, more particularly housing conditions, contact with social relief agencies, the nature of the occupations of parents, unemployment in the family, number of children, illness of breadwinner, etc.; similarly it should be borne in mind that the economic conditions also influence the home factors which are more remotely associated with such conditions.

In evaluating the importance of the economic conditions of the home for the development of the child, particular consideration should be given to the *relativity* of such conditions. Not only may it be of the first importance whether the child grows up in an environment which—though satisfactory economically when considered in isolation—is inferior to the environment of his companions, but much weight should also be given to the developmental history of the home, since its social and economic decline, in particular, may result in maladjustments. This relativity and dynamic of the economic factor cannot easily be represented statistically, and the large-scale investigations referred to below certainly keep to more static and absolute criteria. They must be supplemented with case studies in order to provide a full understanding of the importance of economic factors.

The dynamic point of view is strongly stressed by *de Greef*, Introduction à la criminologie, 1st ed. Louvain, p. 53. More important than the social level, as such, is whether the family shows an upward or a downward economic tendency. "Ce qui importe dans une famille c'est le dynamisme ascensionel".

From the beginning interest has particularly centred on the consequences of *poverty* proper. If, by poverty one has in mind

the cases where the economic conditions of the homes are below the minimum standard of living, there is nothing much to discuss. Existing investigations have abundantly confirmed that children growing up in such homes take to the stealing of food as a natural way out and there is no need to try to explain this otherwise than by poverty. In communities where this utter misery is a rare exception, the problems of the relationship between the economic conditions of the home and crime are more complex.

In recent years investigators have introduced a wide differentiation of homes into economic and *social categories.* Of the many unevitably rather arbitrary classifications the one in which *Cyril Burt* (after Charles Booth) distinguishes eight classes of economic conditions should be mentioned, as should the carefully defined distinctions, as to income conditions, housing standard, occupational conditions, etc., used by the *Gluecks.*

Vide, further, *Cyril Burt,* The Young Delinquent, London 1945, pp. 66 *et seq., Glueck,* Five Hundred Criminal Careers, New York 1939, pp. 113 *et seq.,* Five Hundred Delinquent Women, New York 1934, pp. 67 *et seq. Vide,* also, *Glueck,* After-Conduct of Discharged Offenders, London 1945, pp. 10 f.

Investigations which, like those referred to, are based on intensive analyses of the economic conditions in the parental homes of offenders show the same picture from country to country: a great excess of economically poor or destitute parental homes in the groups of offenders, as compared with the general population.

As far as *Denmark* is concerned, particular reference may be made to the investigation of environmental conditions, etc., in respect of children removed from their homes under sect. 130, subsect. 1, of the Public Assistance Act in the year 1938, conducted by the National Board of Child Welfare *(Henning Friis)*[1]).

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[1]) Statistical Report from the National Board of Child Welfare for the years 1938—40, Copenhagen 1941, pp. 20 *et seq.*

As regards the cases where the removal was due, in whole or in part, to the behaviour of the child, well over half of the breadwinners had been in receipt of public assistance, 60.8 per cent. of the breadwinners having an annual income of less than 2,000 kr. (the corresponding percentage for the total number of breadwinners in this country has been calculated as 47.8 for the same period on the basis of data from the Department of Statistics); it will thus be seen that the income conditions in the environments from which difficult children have been removed are very much inferior to those of the general population. Similarly, the investigation shows that the children so removed were living under much more unfavourable conditions in regard to housing density than children in general.

Of northern European literature should otherwise be mentioned *David Lund,* Über die Ursachen der Jugendasozialität, Uppsala 1918, pp. 45 *et seq.* The parental homes are here divided into four categories: excellent, good, poor, very poor. In 66 per cent. of the cases the homes of the young offenders are subsumed under the two latter categories, while the percentage is far more favourable in respect of the control-group.

Of particular interest are the data available on *housing conditions.* Common to all of the investigations is a particularly high incidence in the criminal groups of bad housing conditions during childhood, first of all overcrowding, bad sanitary conditions and unfavourable neighbourhoods with few facilities for wholesome play and recreational activities.

There exist a number of housing investigations with particular reference to crimes of incest, *vide Kinberg, Inghe and Riemer,* Incestproblemet i Sverige, Stockholm 1943, pp. 116 *et seq.,* with references. According to the Swedish investigation five members of a family on an average were sleeping in the same room as the incestuous party and the housing conditions were generally miserable. The parents used to have sexual intercourse in the presence of the children. The investigation does not support the rather general conception that incest is chiefly due to the parties

sharing a bed, as according to this investigation father and daughter did not, as a rule, share the same bed prior to the beginning of the incestuous relations.—*Vide,* on the subject, *Louis le Maire,* Legal Kastration, 1946, pp. 126 *et seq.*

While, according to what has been stated, there can be no doubt that a large proportion of offenders come from the very poorest homes, on the other hand, investigations of *control-groups of non-criminal children and young persons from the same poor areas as those of the offenders* show that these non-criminal groups have, in all essentials, had the same poor economic conditions as the criminal groups. Thus, *Burt* found that the economic factor of overcrowded homes occurred almost as frequently in the homes of non-criminals of the same social status (*op. cit.,* pp. 77 and 88) and the general conclusion of his investigation is *that the economic conditions in the group of delinquents do not differ so much from those of the control-group as to justify the conditions to be considered as primary causes of delinquency.* Only in 3 per cent. of the male delinquents and in not one of the female could the effect of poverty be called the prime contributory factor (p. 92). On the other hand, many investigations conclude that distinct differences exist between the economic home conditions of the criminals and the control-groups or between individual factors of such conditions. As an exponent of these investigations may be mentioned the work by *Lund,* referred to above, which finds that 66 per cent. of the young offenders but only 26 per cent. of the control-group come from homes of the two poorest categories (poor and very poor), in spite of the fact that the latter was composed of children and young persons from the same areas, schools and social classes (according to the occupation of the father) as those of the criminal group (*op. cit.,* pp. 45—47)[1]).

It is obvious that the outcome of the comparisons will largely

[1]) *Vide* now further *Glueck,* Unraveling Juvenile Delinquency, N. Y. 1950, pp. 79 *et seq.,* who found the "under-the-roof" situation significantly worse among the delinquents.

depend on the composition of the control-group and on the range of factors included under the concept of economic conditions. The determination of satisfactory demarcations, conditioning comparable investigations, presents great difficulties in both these respects. Under these circumstances it is little wonder that there exist apparantly conflicting results. However, they are all in conformity with the simple theses tallying with the general experience 1) that *the large majority of criminals, not least young delinquents, are coming from homes of humble or downright poor economic conditions,* 2) that *the incidence of such conditions in the parental homes of offenders far exceeds that of the general population,* but 3) that *economic conditions of the same or similar nature are found to obtain in many homes without resulting in criminality.*

If it is concluded from the last thesis that economic conditions are not a potent factor in crime, this conclusion must be considered fallacious. The practically relevant aspect of the problem is not whether persons exist who, in spite of unfavourable environmental factors, remain law-abiding, but whether the persons who become criminal in the face of the present unfavourable environmental factors would also have become so in a better environment. As far as this question is concerned, the existing investigations bear out the all but obvious assumption that bad economic conditions and their concomitants present a very high criminal risk.

The investigations previously referred to have primarily aimed at demonstrating the importance of *bad* economic conditions in childhood and early adolescence, which constitute, numerically, the most important problem. However, consideration should be given also to the connection, if any, between social deviation and *good,* more particularly exceptionally good economic home conditions with the resulting risk of spoiling, indulgence, the development of egocentric non-social inclinations, etc. An extreme example of this kind is the American murder case of Leopold and Loeb, where two undergraduates from millionaire

homes killed a boy of their acquaintance in order to demonstrate their independence of general bourgeois morals, *vide* recount of the case in *Bechhofer Roberts,* Famous American Trials, London 1947, pp. 69 *et seq.*—In psychoanalytical theory, the problem of psychological factors at the basis of criminality in young offenders from well-to-do homes has been dealt with by *André Répond* in Die Prophylaxe des Verbrechens (by *Heinrich Meng et alii*), Basel 1948, pp. 1 *et seq.*

55.
THE ONLY CHILD. SIBLING POSITION

Size of Family.

Many investigations of criminal groups have shown an excess of individuals coming from *large families,* as compared with the general population.

Of more recent findings may be referred, in particular, to the data provided by the *Gluecks, vide* Five Hundred Criminal Careers, New York 1939, pp. 119 f., Five Hundred Delinquent Women, New York 1934, p. 70, One Thousand Juvenile Delinquents, Cambridge, United States of America, 1939, pp. 77 f.

A recently published English investigation, *J. H. Bagot,* Punitive Detention, London 1944, states (pp. 44—45) that the average number of living children per family of the ordinary working population in Liverpool is 2.97, as against 5.76 in the families of young offenders investigated by the author. The number is highest in the groups of recidivists and the author concludes that there is a distinct correlation between the size of the family and crime, and that the larger the family, the greater the prospect of recidivism.

According to the Statistical Report by the National Board of Child Welfare 1938—40, Copenhagen 1941, 55.7 per cent. of children removed from their homes because of behaviour difficulties were found to come from homes with three or more dependent children (under 18 years of age), while in the general Danish working population only 17.8 per cent of homes had three or more dependent children (under 15 years of age). Similarly, a Swedish investigation shows a high rate of large families in respect of delinquent children, *vide* Social Årsbok 1941, Ungdoms-

brottsligheten, published by Centralförbundet för socialt arbete, pp. 98 *et seq.*

There can hardly be any doubt that one of the main reasons for this correlation is the generally more difficult economic conditions of very large families, which are also most frequent in the economically end socially low classes of population. It is likely, however, that other factors, too, make themselves felt, including the correlation between the size of the family and mental defects in the parents, defective control with the children, etc. If the latter factors and the unfavourable economic factors are eliminated, there is of course no reason to believe that the home conditions of the large family should be inferior to those of the small family.

The Only Child.

The opposite extreme, *the only-child family,* is often assumed to present an unfavourable or defective family situation with an increased criminal risk in respect of the child.

Vide, on the subject, further *Henry Harper Hart and Sidney Axelrad,* The Only Child Delinquent Contrasted with Delinquents in Large Families, Journal of Criminal Law and Criminology, XXXII, 1941, pp. 42 *et seq.; John Levy,* A Quantitative Study of Behaviour Problems in Relation to Family Constellation, American Journal of Psychiatry, X, p. 639. The assumption is not confirmed by the *Glueck* investigations, *vide* Five Hundred Criminal Careers, p. 120; *vide* also, in a negative direction *William Healy and Augusta F. Bronner,* Delinquents and Criminals, New York 1926, p. 103.—*Cyril Burt,* on the other hand, attaches great importance to this factor, *vide op. cit.,* p. 95. It is surprising to notice, says the author, how again and again, the delinquent is the only child in his family. Under this category are included not only children who have no siblings at all, but also children with only very much younger or very much older brothers and sisters. *Cf.* statistical data, Burt, p. 64.—The special risk of the only-child situation cannot be attributed to economic factors, but is associated with the danger of excessive indulgence, lack of contact with

companions of his own age and, in general, an unwholesome mental, possibly neurotic development.

Sibling Position.

Many different opinions have been advanced on the relationship, if any, of *the order of birth,* more particularly as regards the youngest or the eldest child, to the development of social or anti-social behaviour. Nothing of general validity can be said on the problem.

A number of investigations have afforded a basis for the rather widespread view that the elder siblings must be exposed to a greater criminal risk than the younger, since the economic conditions of the parents often improve with the passage of years, with the result that the younger children grow up under more favourable environmental conditions than the elder, cf. *Wood and Waite,* Crime and its Treatment, New York 1941, p. 174. Among more recent investigations pointing in this direction may be mentioned *J. H. Bagot,* Punitive Detention, London 1944, p. 46, according to whom there is a greater risk of recidivism where the young offender is an elder, than where he is a younger member of a large family. Other authors consider the criminal risk of the eldest sibling to be equal to that of the youngest, while the intermediate siblings are supposed to be in a more favourable position, *vide, e. g., de Greef,* Introduction à la criminologie, 1st ed., Louvain 1937, p. 154; *Asa Shield* and *Austin E. Grigg* in Journal of Criminal Law and Criminology XXXV, 1944, pp. 169 *et seq.,* give an account of an investigation of 200 male prisoners, of whom a significant proportion came from "extreme positions" in the family: first-born, last-born and only children[1]).—More intensive investigations with an improved statistical method, however, have so reduced differences demonstrated earlier that there is hardly any basis for ascribing significant importance to the order of birth as a factor in crime, *vide Sutherland, op. cit.,* p. 167, *W. Norwood East,* The Adolescent Criminal, London 1942, p. 126: the investigation gives no ground for concluding that the order of birth is a crimogenic factor of importance. — From

[1]) *Cf.* now in the opposite direction *Glueck,* Unraveling Juvenile Delinquency, N. Y. 1950, p. 120 and p. 280.

Glueck's extensive investigations may be mentioned the following results from One Thousand Juvenile Delinquents, p. 86: Of 981 cases in which this factor was ascertainable, it was found that 24.6 per cent. were first-born sons, 25.3 per cent. were second-born, 31.3 per cent. were either third- or fourth-born, and 18.8 per cent. were fifth or later in order of birth, *vide,* also, Five Hundred Criminal Careers, p. 120, where the Gluecks state that owing to the absence of comparable material it is not possible to attach much importance to the fact of being the eldest child of a large family. *Vide,* on the subject, further *Raymond F. Sletto,* Sibling Position and Juvenile Delinquency, American Journal of Sociology, Chicago 1934, pp. 657 *et seq.,* who has undertaken a comparative investigation of more than 1,000 delinquent children in Minneapolis and non-delinquent children of comparable age of the same sex and with the same number of siblings. The investigation shows rather complex results with varying conditions, not only according to order of birth but also according to the sex of siblings. The indications are that relevant factors should be traced to the psychological relations among the siblings rather than to the order of birth in connection with the economic status of the parents.—An instructive survey of English-American findings is given by *Emanuel Miller,* The Problem of Birth Order and Delinquency, English Studies in Criminal Science, II, London 1944, pp. 227 *et seq.*

56.
THE MORAL AND PSYCHOLOGICAL CONDITIONS OF THE HOME

On the incidence of *crime* among the parents and siblings of offenders, reference may be made to the exposition above on pages 70 *et seq.* where an account is given of an extensive investigation showing an excess of criminality among family members, as compared with that of the general population. This account referred particularly to the question of heredity, though it also touched upon the criminality of the parents as an environmental factor in relation to the children. In this connection it must be pointed out that "criminality in the home" is a concept

ranging over very different possibilities of influence on the child from direct training in criminal behaviour, to the mere bad example and absence of positive social promptings, and then to concealment of the criminality from the family who only suffer directly through the social and economic consequences of its relevation. Nor can it be ignored that there are cases where the punishment of one of the parents when the child is at the impressionable age operates as a deterrent, in particular if the child is otherwise under the influence of moral patterns. Typically or generally, however, criminality in the home should of course be considered a most adverse environmental influence.

As regards *alcoholism* in the home and *mental defects,* reference may be made to the exposition referred to above.

Less susceptible of statistical demonstration are the more intangible domestic factors, which may be embodied under the term *moral standard.* There is agreement among the investigators that the general moral asmosphere of the home plays an important part in the social development of the child; expressed in such general terms, however, it is but a truism tallying with the general popular conception. The figures indicated in the various investigations lend to this factor a touch of exactness, but, in point of fact, they are based on a very subjective judgment.

A certain approximation to more solid judgment norms may be achieved by dividing the moral standard into different degrees, *vide, e, g., Glueck,* Five Hundred Delinquent Women, New York 1934, pp. 72 f., distinguishing between three categories of moral standards in the home during childhood: good (21 per cent.), fair (31 per cent.) and poor (48 per cent.).

Of more practical importance than general references to the moral standard of the home is the indication of psychological domestic factors of importance for the development of the child. This is a field of investigation of great interest to criminology. Here I shall call attention to only two factors which, according

to the existing case studies, must be supposed to be of particular criminological importance.

First, *inharmonious, intra-family relations* present a great risk for the development of mental conflicts in the child with attending warped development and social deviation.

There exist numerous investigations with high rates of inharmonious family relations in the parental homes of offenders. More recent works have taken a particular interest in the psychic relations between the child and each of the parents, *vide, e. g., Glueck,* One Thousand Juvenile Delinquents, Cambridge, United States of America, 1939, pp. 73 *et seq.,* according to which the relation between father and son (examined in 615 cases) was deemed wholesome in 68 per cent., fair in 21 per cent. and unwholesome in 11 per cent. of the cases, and the relation between mother and son (investigated in 804 cases) wholesome in 82 per cent., fair in 13 per cent. and unwholesome in only five per cent. of the cases. According to these results the mother-son relationship should generally be far better than the relationship between fathers and sons.

Vide, on these questions, further *Wood and Waite,* Crime and its Treatment, New York 1941, pp. 163 *et seq.,* concluding as follows (p. 183): "..... it is likely that the subtler influences of personality conflicts in families are more destructive of the social adjustment of children than is the "broken" family, of which so much has been written".

A thorough illustration, by the case-study method, of the crimogenic importance of intra-family relations is to be found in the work by *D. H. Stott,* already quoted, Delinquency and Human Nature, 1950. The threat of one of the parents to leave the home or the child's fear that this will happen is stressed by this author as one of the most important factors.

Of great importance is the aspect of the parents' relations to the child more directly bearing upon his or her *up-bringing.* It is being increasingly recognised that the problems surrounding the child are traceable to the ability of the parents to bring it up properly. *Miriam van Waters,* who among others has stressed this view in her book, Parents on Probation, New

York 1927, entitles one of her essays: Nineteen Ways of Being a Bad Parent, and *Wood,* very much to the point, adds that, one may even be surprised that the number is no higher (*Wood and Waite, op. cit.,* p. 163).

Of course, there can be no question of going into the whole of the group of problems associated with the up-bringing of children and its principles. Only one point, which has been particularly stressed in more recent criminological investigations, will be discussed here, namely the importance of well-balanced *discipline* as a factor in education. It is generally agreed that this is a factor of primary importance for the development of the child's conduct and countless investigations by the case study method and other methods have provided an empirical basis for this view. It is of the first importance to stress that unfavourable disciplinary conditions consist not only in a too mild or too lax discipline, excessive indulgence, indifference and the like, but also in too harsh, psychologically uncomprehending and unfeeling educational methods and in inconsistent oscillations from one extreme to the other.

Among more recent intensive treatments of the subject should first of all be mentioned *Cyril Burt,* The Young Delinquent, London 1945, pp. 96—99, pp. 265—67 and 519—22. Burt says *inter alia:* "Of all environmental conditions, indeed of all the conditions whatever that find a place in my list of causes, the group showing the closest connection with crime consists of those that may be summed up under the head of defective discipline. Such features are encountered five times as often with delinquent as with non-delinquent children" (p. 96). The author gives an account of the psychic reactions liable to be brought about by excessive punishment, mentions lenient discipline and its correlation with mental defects in the parents and with the bad economic conditions of the home, lays much stress on the fatal importance of capricious and alternating treatment and, finally, touches upon complete indifference to the children in a moral respect. *Lax or alternating discipline are considered the most frequent and the most fatal forms of defective discipline.* — For certain *sensi-*

tive and repressed types of children the ideal discipline is no discipline at all; the best form of control is the control that is exercised by such children themselves with no threats and penalties imposed from outside (p. 519—20). Likewise, the author says a word of admonition against punishment and reproaches along the lines of oldfashioned disciplinary methods in the case of maladjusted children of the *aggressive type, vide,* further pp. 323—25 and 520—22.

Vide, also, of the vast literature *W. Norwood Eeast,* The Adolescent Criminal, London 1942, pp. 86—92, *Glueck,* After-Conduct of Discharged Offenders, London 1945, p. 7., *D. H. Stott, op. cit.,* pp. 368 *et seq.,* who adopts a sceptical attitude to the data given by Burt concerning "defective discipline", emphasising the difficulty of separating the unsatisfactory disciplinary conduct of the parents from their character traits in general.

57.

THE SCHOOL

The school years are of considerable criminological interest in several respects.

1) The school is the first social experiment in the life of the child, its first controlled environment in community with large groups and so also the place where the first *danger signals* for its future development may be observed. Adequate measures in the case of children suffering from school maladjustments are of direct importance for the prevention of crime.

2) In the evaluation of the personality of an offender, with particular reference to the *prognosis,* data on his school relations are of essential importance. This is true not least in the case of a possible psychopathic condition, the early manifestation of behaviour difficulties being one of its symptoms.

3) The school affords excellent *possibilities of exerting a socially formative influence* on the child, in part through the impartment of knowledge, in part through the formation of character. It is disputed, however, whether the mere impartation of

knowledge operates, in general, as a deterrent in relation to crime.

4) However, in the application of wrong pedagogic principles, the school also affords possibilities of *inflicting permanent injuries on the child* in the development of its character. The discussion thereof is of direct criminological interest.

At this point of the exposition dealing with the importance of the closer environmental factors during the years of childhood and early adolescence, the two latter factors will be particularly discussed, though for the sake of connection a few observations will also be made on the two former factors.

It is a general experience, borne out by many investigations, that offenders include a comparatively large number of persons who have shown *behaviour difficulties* or *school retardation* already at an early school age, *vide,* on the special problem of retardation, above on page 170 *et seq.* Statistical analyses with control groups indicate that *truancy* is the most significant symptom of serious maladjustments.

Stürup and *Christiansen,* 335 Statsfængselsfanger, 1946, (unprinted), have discovered "difficulties at school", including bad behaviour, retardation, in particular non-removes, frequent change of school (more than four schools) in a very large proportion of prisoners, in 32 per cent. of first offenders and 56 per cent. of persistent chronic criminals.

In Germany the problem has been particularly dealt with by *Hoffner,* Kriminalität und Schule, Kriminalistische Abhandlungen, No. 17. This author has compared the school marks for behaviour, achievements and diligence in respect of 163 young offenders with the corresponding average marks in respect of school children in general, to the consistent detriment of the criminals, *vide* recount by *Exner,* (Kriminalbiologie, Hamburg 1939) p. 282.

Of the more intensive American investigations should be mentioned *Glueck,* One Thousand Juvenile Delinquents, Cambridge, United States of America, 1939, pp. 86 *et seq.,* giving high figures of offenders with school retardation (of 953 boys only 15.5 per cent. were not retarded). — As for *truants, vide*

in particular the New York State Crime Commission: From Truancy to Crime, Albany 1928. This investigation embraced 251 truants who had been transferred to a special truant school. 30 per cent. of them developed into adult criminals.

As mentioned, opinions are divided as to the importance of *school knowledge* or the lack of it for the development of socially satisfactory or unsatisfactory behaviour, and attempts to provide information on which to base statistics illustrating the subject meet with difficulties both as regards measuring the factor of knowledge and separating it from economic and other environmental factors, intelligence defects, etc.

In somewhat older criminological literature it has been animatedly discussed whether or not the impartment of school knowledge or a certain general education acts as a deterrent to crime. The discussion has related to elementary education, more particularly action against *illiteracy,* as well as to a certain higher enlightenment and, finally, also to moral education. The repression of crime by means of doing away with ignorance and superstition was one of the items of the programme of the Age of Enlightenment, and the socialist theory had the same optimistic principle, though the emphasis there was laid rather on education through a strengthening of the social instincts coupled with the abolition of the current economic-egoistic system. *Lombroso* and his school however, in particular *Ferri,* adopted a skeptical attitude to the value of teaching and education as a means of repressing crime.

Lombroso, vide Crime, Its Causes and Remedies, London 1911, pp. 105 et seq., thus mentions investigations showing that a reduction in the number of illiterates is coupled with increasing criminality and that the proportion of criminals among illiterates is smaller than the corresponding proportion among those who can read and write. He adds, however, that education is not so fatal as it appears at first view. It favours criminality only up to a certain point, then exerting an opposite influence, and it modifies the character of crime, the more savage type of the illiterate being replaced by a more cunning and sly type. However, Lombroso is against teaching in prisons (p. 114) and his

generally negative view on the value of education finds expression in the following exclamation (p. 302): "How many misfortunes, how much blood, would not Italy and France have been spared if Napoleon, Boulanger and Crispi had been illiterate".

Enrico Ferri has advanced similar views, *vide,* for details and critical observations, *Bonger,* Criminality and Economic Conditions, Boston 1916, pp. 118—25.

This discussion is now obsolete. Later statistical investigations generally show a higher crime rate among illiterates (possibly in connection with mental defects) and where, as an exception, other results are reached, they are due to certain special conditions, *e. g.* that in the country concerned a very large proportion of the illiterates are women, the low criminality of whom reduces the criminality of the group, *vide,* thus, *Hacker,* MfK 1931, p. 277, as far as Hungary is concerned.

In more recent criminology interest has centred, not so much on the general question of the value of enlightenment, but rather on the possibility of providing more exact evidence of a concrete correlation between lacking or deficient school education and crime.

Goring (The English Convict, London 1919) pp. 190 f., claims here that the following data can be expressed statistically: 1) the nature of education received (what kind of school), 2) age on leaving school, 3) results of schooling evaluated at its conclusion, 4) results of schooling evaluated at commitment to prison.

In respect of each of these points — or similar points, *e. g.:* Which form did the child reach at school? — the existing investigations of criminal groups show unfavourable results: the criminals have generally attended elementary schools only, they have left school at the earliest age possible, they have got low marks at school and they have benefitted but little from their education. Where such investigations have been coupled with investigations of control-groups, the latter generally show the said results to be below average.

Vide, e. g., J. H. Bagot, Punitive Detention, London 1944, pp. 33—35: Of 524 delinquent boys 521 had attended elementary schools only. — The *Glueck* investigations, which include control-

groups, too, provide a clear picture, as regards the United States of America, of the subnormal school education of the offenders, *vide, inter alia,* Five Hundred Criminal Careers, New York 1939, pp. 132—34, and One Thousand Juvenile Delinquents, Cambridge, United States of America, 1939, pp. 86—89. Here, *the reasons for withdrawal from school* are also examined. 66 per cent. of the delinquent children had been withdrawn from school for economic reasons. This rate was twice as high as the corresponding rate in respect of school children (in Boston) in general.

There exist as well investigations comparing the degree of school education among different types of offenders, *vide* above on *Stürup* and *Christiansen*'s Danish investigation of prisoners. According to American investigations, those who committed frauds etc., had the greatest amount of education, aggressive criminals the smallest, *vide Sutherland* (Principles of Criminology, New York 1947), p. 195.

Where comparisons are made between the general *capacity to apply elementary school knowledge* at a later stage of life of criminal and of non-criminal groups, the picture is less clear than is the case in respect of the points referred to above. *Wood and Waite* (Crime and its Treatment, New York 1941), p. 260, mention the investigation conducted during the first world war of one and a half million soldiers and seamen, which showed that about one-fourth were unable to write a letter or read a newspaper, and consider it likely that this is true also of prisoners. The practical ability to read and write in Denmark is no doubt far in excess of that demonstrated by the American investigation; for the prison population it has been further developed through the prison schools.

Accordingly, there can be little room for doubt that most offenders have a comparatively inferior type and amount of school education, so that some correlation between school attendance and crime may reasonably be assumed. However, as a limited school education and poor scholastic attainment are largely due to economic and personal conditions, one cannot ignore the possibility that the actual relevant factors are to be found in such conditions. However, though one attributes an essential importance to

schooling it does not follow that it is *the impartation of knowledge* that should be regarded as the socially formative factor, but it should largely be taken into account that it is the direct and indirect *formation of character* exercised by every good school which makes effective school attendance a positive factor from a criminalistic point of view.

The question of *injurious effects on the mind of the child* with fatal consequences as a result of the inadequate school methods referred to above, has been strongly stressed by recent child psychologists whose views have met with response in criminological circles.

There are many aspects to the problem and it cannot be treated in any detail here. Criticism of the conditions prevailing in most places asserts in particular that there is insufficient individual treatment in schools which require the achievement of a certain standard of knowledge at each age level. The less intelligent and those who do not mature in step with the general age scale are subjected to a system of low marks, reproaches, non-removes, etc., which gives rise to feelings of inferiority with attendant adverse reactions: animosity against the school and anti-social attitudes. Truancy, etc., according to this view, need not be a manifestation of a personality deviation, but should rather be considered as a "flight from an unbearable situation". Worst of all is the application of old-fashioned ways of punishment to difficult or stupid children. Positively, the importance of a close knowledge of the psychology of the child is pointed out; further, the appointment of specially trained school psychologists, the establishment of psychological clinics and advisory institutions for difficult children and their parents, the arrangement of special classes for retarded children, etc. are all advised.

Vide, on the question, further *Cyril Burt,* The Young Delinquent, London 1945, pp. 181—86, *Arthur B. Allen,* The Psychology of Punishment, London 1943, *William C. Kvaraceus,* Delin-

quency. — A By-Product of the School? (School and Society), 1944; same author: School and Delinquency, New York 1945.

As for psychological child guidance clinics in the United States of America, in particular the well-known *Judge Baker Foundation* working in connection with the juvenile court of Boston under the charge of Doctor William Healy and Doctor Augusta Bronner, *vide Glueck,* One Thousand Juvenile Delinquents, Cambridge, United States of America, 1939, pp. 46 *et seq.*

58.
COMPANIONS

Closely connected with the question of the influence of the school is that of the influence of *companions* in and outside the school. This problem may be viewed in connection with a number of other factors, in particular the use of leisure-time, the general conditions of the home, mental defects, bad habits, etc.

The influence of companions may again be viewed from different aspects. One may examine the extent to which offenders, as compared with non-delinquent control-groups, have been *members of social or anti-social groups,* such as sports associations, boy-scouts' patrols and the like on the one hand and juvenile gangs of a more or less criminal nature on the other. One may also examine the extent to which different groups of criminal persons have *committed their offences alone or in association with others,* whether they have had *good or bad companions* or companions who have indirectly exerted an adverse influence on them.

All these questions have been extensively investigated. The investigations show that the criminal persons have generally had less contact with constructive youth organisations (which is associated with a generally less wholesome and constructive use of leisure time) and that they have largely been under the influence of and acted in concert with bad companions. Besides, several countries report of widespread *gang criminality,* which, however, is so highly dependent on local conditions that conclusions may

hardly be inferred from such data as to the conditions in this country where, in normal times, gang criminality is of much smaller importance.

The importance of companionship and the collective planning and execution of offences is made more understandable by *group psychology,* actual mass psychology, however, falling outside the subject. What is of particular interest in the groups concerned is the desire for imitation, the breaking down of inhibitions against criminal acts under the influence of the example and authority of more hardened and audacious companions, the desire for showing off, for making a contribution and for being appreciated in a group of often older and admired companions, psychologically explainable in the light of failure at school and in other social groups; further, the feeling of a distribution or removal of the risk because of the contribution of several persons, the increase of excitement in joint action, the implementation of fictitious examples from plays, films, penny dreadfuls, etc.

The causal element in the influence of bad companions has probably been given undue weight. This element is not capable of exact demonstration. In the most important of the existing investigations, which are based on a large number of case studies, opinions vary widely. While *Healy* considered bad companionships as a significant factor in no less than 34 per cent. of his cases and as the main factor in more than 5 per cent., *Burt* is far more cautious in his judgment, his figures amounting to 16 and 3 per cent. respectively for the boys and 13 and 1 per cent. respectively for the girls[1]). It should be borne in mind that the supposition, so often put forward by parents and relatives, that the child's deviation is due to bad companions affords no explanation of the delinquency of such companions and that the influence practically always presupposes a certain criminal disposition. Only where a hitherto normally developed child has commenced to show crim-

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[1]) *op. cit.,* pp. 129—30 with references.

inal behaviour in direct connection with a new acquaintance of a particularly base nature, may one talk, with some degree of confidence, of incitement to crime through bad companionship. In most cases, however, the choice of bad companions and the imitation of them should be considered as mere symptoms of a deeper anomaly or conflict, which is the actual root of the evil, *cf.,* thus *Burt (op. cit.),* pp. 130—31 and p. 129, note 1, who states that at least four out of five of his subjects had shown criminal impulses *prior to* their gregarious collaboration.

From the existing investigations may be elicited certain general features in regard to the importance of bad companions to different groups of offenders. First, this factor seems to operate with *more force and frequency among boys than among girls, vide* the figures quoted above from Burt's investigation. Secondly, it will be seen that the importance of the factor is *declining in the case of persistent criminality,* the recidivists acting on their own more frequently than do the beginners.

Concerning the young offenders' use of *leisure time, vide* among others, *Glueck,* After-Conduct of Discharged Offenders, London 1945, p. 16: Only one per cent. of them used their leisure time constructively, 6 per cent. in an unharmful, but non-constructive way, and 93 per cent. had used it harmfully (hanging about the streets, gambling, etc.).

Bad habits are compared by *Glueck,* Five Hundred Criminal Careers, New York 1939, pp. 126 *et seq.,* with bad companionships. Under bad habits are included, in particular, immorality, gambling, drinking, excessive indulgence in tobacco, *vide,* also, One Thousand Juvenile Delinquents, Cambridge, United States of America, 1939, pp. 93 f and 105, where a number of other bad habits are included. Of 972 boys, only 38 had neither bad companions nor bad habits.

As for *gang criminality,* reference may be made, *inter alia* to the book, *Ligabrottsligheten,* Stockholm 1941, published by the Kooperative Förbundet. The investigation relates to associations, for criminal purposes, of three or more persons who have committed no less than three crimes in common. Gangs of this nature

show a sharp rise in Stockholm, Gothenburg and Malmö in the years 1938—40. The increase is greater than that of the total criminality. The members are chiefly young (only one-fifth being 25 years or more). Their social environment and home conditions are very poor.

Of the existing empirical sources concerning *the commission of offences in association with companions* the following should be mentioned:

J. H. Bagot, Punitive Detention, London 1944, pp. 41—42, mentions an extensive investigation he has undertaken, according to which 55 per cent. of the delinquent boys committed their offences in groups of three or more. The rate decreased with age, being 63 per cent. for children and 40 per cent. for juveniles. Of a group investigated later, distinguishing between recidivists and non-recidivists, 24 and 12 per cent. respectively had committed their crimes alone; the less hardened thus show a greater tendency to commit offences in company with others.

W. Norwood East, The Adolescent Criminal, London 1942, p. 274, states that of 3948 young offenders 1581 had no companions at the time of the last offence. Of the remainder, 1103 were associated with companions of their own age, while 957 were associated with older and 307 with younger companions.

According to *von Fieandt*'s investigation, NTfK 1950, p. 47, the feebleminded (imbecile) persons of his material generally committed their offences alone, while group criminality was more frequent among the intelligent persons.

Concerning the evaluation of *bad companions as causal factors,* reference may be made, in addition, to *Healy and Bronner,* Delinquents and Criminals, New York 1926, p. 179, who quote an extraordinarily high proportion: "..... in 62 per cent. of 3000 cases companionship could fairly be regarded as a causative factor in the delinquency .....".

So far, we have only been concerned with the direct crimogenic influence of companions. Sometimes more *indirect effects* are also pointed out of association with companions who are not actually bad themselves but who exert an adverse influence by dragging the child into an environment that, socially and economically, is superior to his own. It is obvious that such conditions

may involve special temptations and reactions, sometimes of a criminal nature, *cf. Burt (op. cit.),* pp. 131 *et seq.*

59.
CONCLUSION

In the preceding chapter the existence and importance of a number of factors or groups of factors relating to the home and the family have been analysed separately. As mentioned already, these factors are partly inter-related and, as a rule, many of them exist side by side in the early environment of the offender. Therefore, a true picture of the actual facts may only be obtained if the incidence of all such factors is considered *en bloc.*

As will be seen from the existing findings, the proportion of criminal persons, especially the worst criminals, recorded in all investigations as having grown up under conditions marked by some essential environmental defect, is extremely large. To mention one example only: According to the statement given by *Christiansen* in Nordisk Tidsskrift for Strafferet 1943, pp. 41 *et seq.*, on criminological investigations at the State Prison at Vridsløselille, defective family conditions, adverse up-bringing and/or unsatisfactory schooling, included in one group as *"childhood defects"*, are present in 81 per cent. of the prisoners. If the group were extended to all of the environmental factors in childhood referred to above, the percentage would no doubt be 100.

Such data, however, must not be accepted without criticism. The investigations have not all been supplemented with comparable statistical analyses in regard to non-criminal groups, and the figures available of particular defective factors in childhood in control-groups also indicate defects in the environmental conditions in childhood of a great many non-criminals. Thus, the presence of one or more defects in the environment of the criminal cannot, as a matter of course, be considered as an essential subnormal feature. Besides, it must no doubt be recognised that

there are cases of criminality where no defective environmental factor in the childhood of the offender can be shown, nor any other abnormal feature in his development or personality, *vide,* concerning this "causal criminality", below on pages 359 and 392.

These reservations, however, should not obscure the total impression of the empirical information provided as to the prevalence of social maladjustments during the childhood and early adolescence among criminals. Investigation after investigation has revealed such accumulations of adverse conditions during the early years of criminal groups and individuals that, according to general human experience, the development of such persons can excite little wonder. And here I must touch upon a practical problem of penal policy which otherwise falls outside the scope of this book. From the point of view of penal policy it leads nowhere to ask: Why do persons exist who do *not* become criminals under the same or similar conditions? But the practical question is: How can we prevent the persons from criminality who, under present conditions, succumb to the pressure of too unfavourable conditions in childhood? It is an all but obvious conclusion that the way must be that of changing or remedying such conditions to the widest possible extent.

Vide, on the subject, *Carr-Saunders, Mannheim and Rhodes,* Young Offenders, Cambridge 1942, pp. 94—96, giving an interesting general characterisation of the criminal group investigated, as compared with the control-group.

CONDITIONS AFTER THE YEARS OF CHILDHOOD AND EARLY ADOLESCENCE

60.
THE ECONOMIC AND OCCUPATIONAL CONDITIONS OF OFFENDERS

A study of the relationship of economic conditions to crime should, of course, also include the economic conditions of the criminals themselves after they have become self-supporting and, particularly, when the criminal acts are actually committed. Here the economic factors are so much interwoven with the occupational ones that both should be treated together.

The problem has been illustrated through numerous investigations of large groups of prisoners and by case studies. The investigations generally show that the criminals and, more particularly, the criminal recidivists, as compared with non-criminals of the corresponding social classes and occupational groups, have poorer occupational possibilities, owing to such things as the lack of vocational training, more frequent change of occupation, higher rate of unemployment, lower earnings, poorer housing conditions, and more economic difficulties owing to a disproportion between income and expenditure, etc. However, there are also investigations the results of which deviate from this general picture.

In this connection should be mentioned *W. Norwood East*'s investigation of 4,000 young offenders with, *inter alia,* the following conclusions (The Adolescent Criminal, London 1942, p. 166): The percentages of time spent in unemployment by the offenders were not appreciably above the estimate for the general population. But at the actual time of committing the last offence the rate of unemployment was much higher. There was a small, but statistically significant difference between the records of past unemployment of first offenders and recidivists, the record of the latter being the higher. — As regards earnings, the investigation showed an interesting and distinct correlation between good

earnings among young men under 18 years of age and recidivism. The correlation was still evident, though less pronounced, at 18 to 20 years. It would seem, says East, that the attributes which in adolescence determine legal offences may also sometimes improve the earning capacity of a lad.

In Denmark, there is a rather intensive investigation of a small prison population, *viz.* Stürup and Christiansen's (unprinted) investigation of 335 State prisoners (1946), *vide,* also, Christiansen's account of the investigation of part of the material (126 recidivists) in NTfS 1943, pp. 50—55. A brief summary of this unprinted work follows.

Lack of vocational training. Approximately one-half of the investigated prisoners have had no vocational training, such training not having been commenced at all or having been discontinued before its conclusion. Vocational training also includes clerical or shop-assistant training. Similarly, the offenders who have been working not less than four years in agriculture as farm hands, cattle feeders or the like are considered as skilled.

Occupational difficulties. No less than 84 per cent. of the prisoners have had "occupational difficulties", including frequent change of job (estimated to differ somewhat within the different trades), change of occupation (such as a completed vocational training that is not utilised), or a generally bad report from the employers.

Unemployment. More than one-half — 57 per cent. — of the prisoners had been unemployed either at the time of committing the offence or for some length of time (at least four months of the year) during the immediately preceding period.

Economic difficulties. Under this heading have been subsumed all cases where the offenders' expenses have been too large in proportion to their earnings, interest having centred, in particular, on their standing charges (instalments of debt, instalments of hire-purchase, rent, contributions, sickness fund, taxes, etc.). The designation of economic difficulties has been applied only where the remaining sum must be supposed to have been too small to cover the cost of food, clothing, and the like. This factor has been present in well over 70 per cent. of the cases. This analysing of the material includes no calculation of the distribution of the prisoners by income groups alone. Such a calculation, however, has been undertaken by Christiansen with reference to the smaller

part of the material of which an account has been given in NTfS 1943, pp. 53 *et seq.* It was found here that scarcely one-fourth (of the 126 prisoners) had had an income (taxable income) of less than 1000 kr., slightly less than one-half one between 1000 and 2000 kr., and well over one-fourth one of more than 2000 kr. Four per cent. only had had a taxable annual income of more than 3000 kr. In comparing there figures with the statements of the Yearbook of Statistics it is estimated that the prisoners earnings are considerably below those of the groups designated in the Yearbook as workers and shop assistants.

One or several of the occupational or economic defects referred to above. In combining the results of the investigations relating to each of these factors in the Danish investigation, it turns out that 94 per cent., or almost all of the persons investigated, have come up against one or the other of these difficulties.

The total aspect of this Danish investigation as well as of a host of foreign investigations leaves no doubt whatever of a very close and significant correlation between economic difficulties in their widest sense (including occupational and similar social difficulties) and crime. This correlation, however, need not imply a causal relationship, with poor economic conditions as cause, and crime as effect. As already pointed out, the very nature of statistics precludes any evidence at all of a causal relationship. And given our knowledge of a large number of other crimogenic factors it is improbable that any one single factor, including the economic one, may be considered the sole cause of crime. Here, however, account should be taken not only of the general interplay between endogenous and exogenous factors, but also of the possibility that criminality and the qualities making for crime are the primary factor and economic and occupational difficulties the secondary factor or that such difficulties and criminality are parallel effects of a common underlying defect in temperament and moral equipment.

Vide, among many expositions expressing views in the latter direction, *e. g. Carr-Saunders, Mannheim, Rhodes,* Young Of-

fenders, Cambridge 1942, pp. 95—96. The authors explain and stress that poverty may be due to a character defect, adding:

"Indeed, any attempt to argue that low economic status, of a kind attributable wholly to heavy burdens and external misfortune, is the main cause of delinquency, is defeated by the facts that most poor families are not delinquent and that much delinquency occurs in relatively well-off families".

It should be emphasised, however, that such views are very theoretical. From the point of view of practical penal policy, the empirical information on the correlation between economic-social conditions and crime is fully adequate to justify the continuation of the fight for improving such conditions as a primary means for the repression of crime.

On the other hand the complete or approximate elimination of crime, or of crimes against property, through economic reforms appears utopian. The economic system in non-socialist States may probably be said to be associated with a mentality which, in spite of all imaginable social reforms within its framework, will always tempt people to commit crimes against property. And even in a purely socialist State thefts, etc., must be supposed to be committed not only because of destitution, but also because of a desire for property beyond what is necessary or general.

Vide, e. g., H. F. T. Rhodes, The Criminal in Society, London 1939, pp. 25 et 55 *et seq.,* on the distinction between crimes of destitution and crimes of covetousness. The author stresses the flowing transition between these concepts: "The luxuries of one economic system become the necessaries of the next". Where in the 18th century a man stole to get bread, the man from the 20th century steals to buy cigarettes and a cinema ticket. Deteriorations in economic and social status may have crimogenic effects even though the new, reduced level is considerably above the average for the population.

61.
MARITAL STATUS[1])

The question as to whether typical correlations between *marriage* and *crime* can be shown to exist is one of considerable criminological interest. It is, of course, of crucial importance for the shaping of the life of each individual human being whether he or she is single or married, who the partner is, and the course the marriage takes; no study of the fate of the individual offender can fail to investigate the importance of such factors in his life. The question is, however, whether it is possible to find more general regularities in this field.

This question may be approached either via the general criminal statistics or via investigations of the careers of small criminal groups.

Mass-Statistical Investigations.

As regards the large crimino-statistical analyses, there are three main views. One of these, which was represented in particular in the earlier moral statistics *(von Oettingen, Joly, et alii)* assumed that a generally *favourable correlation between marriage and crime* was capable of demonstration in the sense that married life, the parental relationship, etc., strengthened the social tendencies, thus having a preventive influence on criminal propensities and temptations. Evidence of this fact was found in statistics showing a higher crime rate among the single than among the married. A second view among criminal statisticians is that *no safe or even fairly safe conclusions are capable of being drawn from the statistical data* relating to such matters as unmarried status, marriage, separation, divorce, widowhood. Such data only refer to external facts, while the factors in family life of actual importance to criminality, *viz.* the economic founda-

[1]) *Cf.* the Danish Marriage Act No. 276 of 30th June 1922 sect. 10 concerning the consent of the Minister of Justice to the contraction of marriage by pronounced psychopaths.

tion, the relations between the partners, etc., are not capable of registration in the general criminal statistics. Owing to this sceptical view which, *inter alia,* found official expression in the German national statistics of 1908, detailed particulars of such data were left out of the statistical tables in Germany and elsewhere. A third view, having eminent advocates among present-day criminologists, discounts this scepticision and argues that relevant correlations of great interest can be elicited from the mass-statistical data, if only a sufficient *distinction is made between the two sexes, between different age groups, between different types of crime and preferably also between different social classes, etc.* The investigations on which this view is based and which apply this more thorough technique are not very numerous in Europe but are supplemented by several American investigations. A brief summary of the principal results of such investigations follows.

Among these investigations the works of *Friedrich Prinzing,* dating from the turn of the century, have preserved their value, particularly as regards method. Of these works should be mentioned: Der Einfluss der Ehe auf die Kriminalität des Mannes, Zeitschrift für Sozialwissenschaft 1899, pp. 37 and 108 *et seq.* Die Erhöhung der Kriminalität des Weibes durch die Ehe, Zeitschrift für Sozialwissenschaft 1900, pp. 43 *et seq.* Soziale Faktoren der Kriminalität, Zeitschr. für Strafrechtswissenschaft 1902, pp. 551 *et seq.*—Prinzing's statistics cover the years 1882—93 only and his investigations have not been brought up to date to the same extent and intensity by later research. With particular reference to female criminality, however, there exists a more recent important work by *Hans Krille,* Weibliche Kriminalität und Ehe, Kriminalistische Abhandlungen XV, Leipzig 1931, following the statistical investigations up to the year 1912.—An instructive survey of the existing works and their results is given by *Ernst Roesner* in HdK I, Berlin 1933, pp. 398—414.

As regards *men,* a distinction should be made, according to the investigations by Prinzing and others, between husbands in the young age groups (up to 25 years) and in older age groups.

The statistics show a higher crime rate among the young husbands, as compared with unmarried men of the same age group, while it is the other way round in the age group from 25 years upwards; here the married men have the lower crime rate.

As far as the *women* are concerned, *cf.* in particular *Krille's* work referred to above, the unmarried in all age groups have a lower crime rate than the married if a purely quantitative standard is applied (number of convictions in proportion to the size of the groups with no discrimination according to the nature of the crime); this picture changes, however, if a distinction is made according to the nature of the crime, the unmarried being more strongly represented than the married in the more serious types of crime. Judged by gravity and not by figures criminality should thus also be less among married women (as in respect of men over 25 years of age).

Vide, further *Krille's* table on pages 48—49 of the relationship between the criminality of married and unmarried women: the unmarried women show a higher rate in the case of the following types of crime: 1) in all of the age groups investigated by the author (*i.e.* between 21 and 60 years): sexual crimes, simple larceny with repeated recidivism, grand larceny with repeated recidivism, fraud with repeated recidivism; 2) in younger age groups (between 21 and 40 years) with subsequent change to a higher crime rate for the married: violence and threats against officials, perjury, murder and homicide, criminal abortion, crimes against property in general. The married women only lead in less serious types of offence, more particularly violations of domestic peace, libels, violence, threats, and receiving.

The explanation of these statistical results, provided they may be assumed to give a true picture of the actual facts, must be traced to rather complicated social and socio-psychological conditions. That young married men show a higher crime rate than do the unmarried, may thus be due to special economic difficulties in the very young marriages as well as to the fact that the early marriages are found in particular in the low social classes of the population; further, to the frequently enforced or rash con-

traction of such marriages with attending adverse results, *cf. von Mayr*'s characterisation of the very early marriage as a "socio-pathological phenomenon" (*Roesner, loc. cit.,* p. 404). That the married women lead in a number of offences which because of their frequency swell the statistics may be susceptible of explanation by the connection of such offences, *e. g.* libels, with frictions of housewives, in particular in densely populated working-class areas, with their surroundings. *Krille* talks here of social "offences of constellation". Conversely, the generally more favourable crime rate of married men and women, apart from the exceptional groups referred to, should have a certain connection with various stabilising factors associated with the establishment and maintenance of a family.

Of peculiar interest in this connection are the data on *the criminality of divorced persons,* as compared with other groups. The statistical data show throughout an excess of crime in respect of divorced (and separated) persons, as compared with unmarried and married persons. Very often the figures are included in the figures for widowers (widows), but where a differentiation has been made, the figures are more unfavourable in respect of the divorced than in respect of the widowers (widows).

Vide, Exner, Kriminalbiologie, Hamburg 1939, p. 304, with reference to *Hacker* in MfK 1931, p. 276. *Cf.,* for the experience from the United States *Sutherland,* Principles of Criminology, New York 1947, pp. 170—71, recounting an American investigation, according to which the rate for commitments in 1923 was lowest for the married, next lowest for the widowed, next for the single, and highest for the divorced, *vide,* on the subject, also *Wood* and *Waite,* Crime and its Treatment, New York 1941, p. 253.

It should be stressed, however, that such investigations only show a connection but do not and cannot indicate any causal relationship. Whether the ruin of the marriage is the primary fact and criminality its result, whether divorce is due to criminal-

ity that continues after the termination of the marriage or whether both divorce and criminality are due to the same social and personal defects, these are questions that may be illustrated only through case studies.

In spite of all the efforts of a refined methodology, the empirical information that has been provided by mass statistics in this field remains rather unreliable and problematic. To show how rough and, therefore, inadequate the mass-statistical investigations must be, one need only point to the fact that the official statistics only register the married and single, not the engaged, while in actual fact many individuals of the classes of population particularly concerned in the evaluation of crime cohabit without being married and should therefore be included within the class of the married.

Interest thus centres on investigations of small groups where the relevant data are more susceptible of consideration.

From Danish Criminal Statistics may be given the following percentage distribution of convicted persons, according to marital status:

	Men:				Women:			
	Single	Married	Widowers	Separated or Divorced	Single	Married	Widows	Separated or Divorced
1947.....	50.4	40.6	1.2	7.8	41.6	39.9	2.6	15.9
1946.....	52.8	38.8	1.1	7.3	46.9	38.0	2.5	12.6
1939.....	58.3	34.0	1.2	6.5	57.5	29.0	2.7	10.8

As will be seen, the single constitute the largest of the groups. In recent years, however, the distribution shows an increasing proportion of married persons which, for the women, is fast approaching that of the single. The ex-married persons play a considerably greater part among the women than among the men.

The table shows only the percentual distribution in crime. Whether the single, the married or the ex-married have the highest crime rate in proportion to the population of each group, cannot be seen from this table. On this question, however, the following statistical data are available:

Number of convictions per 100,000 of the population in each of the groups at ages 25 to 39 years.

		Single	Married	Widowers & Widows	Separated or Divorced
1947	Men	1.555	821	1.500	4.172
—	Women	186	108	377	977
1946	Men	1.489	745	1.650	4.296
—	Women	217	107	309	890
1939	Men	765	375	681	3.368
—	Women	59	27	19	363

According to these figures, the group of separated and divorced is by far the most criminal one, and the crime rate of the single is almost twice as high as that of the married. However, the figures should be used with caution. As is pointed out in the official comments to the tables (the Criminal Statistics for 1947, pp. 28 f.), the figures relating to the ex-married are based on a small number of convictions (and the rubrication is not quite reliable); besides, as regards the high crime rate of the single, it should be taken into account that the members of this group largely belong to the young age groups, which have a high crime rate.

Investigations of Small Groups.

In Denmark *Stürup* and *Christiansen* have studied the marital relations of 335 State prisoners at Vridsløselille. The authors make a distinction between a favourable and unfavourable influence of marriage on criminality. The correlation is considered *favourable* where a formerly criminal person either discontinues his criminal ways after marriage or passes into milder forms of crime

or has a law-abiding period of some length; while the correlation is *unfavourable* where a criminal career is either commenced, or takes a more serious form subsequent to the contraction of marriage. According to the investigation the correlation has been favourable in 12.8 per cent. and unfavourable in 14.3 per cent. of the cases. In a small number of cases the unfavourable correlation is accounted for by the economic burdens associated with the marriage. "More frequently the correlation seems to be of a less material nature. The life with a defective wife will mark the whole conduct of the man and result in a general social deviation . . .".

More intensive foreign investigations of this nature have been undertaken, among others, by the *Gluecks* who have traced a large number of factors of importance in the evaluation of marital relations, *vide, e. g.,* Five Hundred Delinquent Women, New York 1934, pp. 93 *et seq.,* where the following questions are discussed: Sexual intercourse prior to marriage, age at first marriage, the manner in which the acquaintance of the spouse has been made, the duration of the acquaintance before marriage, whether the marriage has been contracted under compulsion (pregnancy, etc.), whether the woman has fulfilled or neglected her duties as a wife and mother, whether the cohabitation between the spouses has been maintained, whether the spouse behaves properly, etc. In all respects the investigation shows high figures of unfavourable replies to the questions. The marriages have been contracted earlier than is normal in the population, a large number of them are due to chance encounters in the street or at a restaurant, the spouses have known each other for a short time only before they married, one-third of the marriages have been enforced owing to pregnancy or pressure on the part of the parents because of sexual intercourse, 84 per cent. of the women have neglected their duties in the home and to the children, and a similar number of the men have shown criminal or improper behaviour, and the alliance has been broken for

ever or for certain periods in the large majority of the cases (82 per cent.).

In the light of such experience concerning marital relations in different groups of criminals it cannot be maintained that marriage generally operates as a favourable factor in criminal careers. Whether the marriage (or the regular actual cohabitation) will exert a strengthening and stabilising or a demoralising influence entirely depends on the circumstances of the particular case, first of all on the personality of the spouse. All that can be said in general is that the prospect of getting a bad partner, from a social, ethical, and mental point of view, is greater in these groups than is the prospect of getting a valuable partner, a prospect which diminishes the deeper the person concerned is sunk in criminal and antisocial conduct.

Attempts have been made to explain such empirically demonstrated correlations, which are reflected, *inter alia,* in a high crime rate among the spouses of offenders and, more particularly, of persistent recidivists, by a biological lawfulness in the selection of a mate, a so-called *"biological partner rule", vide,* further, *Stumpfl,* Erbanlage und Verbrechen, Berlin 1935, pp. 28 *et seq.*

According to this theory the crime rate of a group bears a certain ratio to the crime rate of the conjugal partners of the members of this group. The rule is supposed to depend on a mutual attraction of characters capable of being traced to a deep "similarity of nature". On page 28 Stumpfl gives a table of the relations based on the investigations undertaken showing, *inter alia,* that only 1.3 per cent. of the wives of non-recidivists were criminal whereas the percentage for the wives of recidivists was 45.

Obvious social reasons can explain this phenomenon, however, without recourse being necessary to questionable biological hypotheses. Anyway, there can be no question of a biological necessity for the union of homogeneous partners. In this connection reference may be made not only to countless testimonies of the

attraction which different or opposite characters may exert on each other but, as regards criminal careers, quite definite experience may be pointed out. If one of a criminal pair of monozygotic twins may be married to a capable and respectable wife and afterwards lead a law-abiding existence, while the other twin gets a bad wife and continues or increases his criminality, one can wish no plainer evidence of the importance of external, non-biological factors in "the selection of mate" (and in the subsequent development in regard to crime).

Vide, as examples of twin pairs of this type of development, *Johannes Lange,* Verbrechen als Schicksal, Leipzig 1929, pp. 39 *et seq.* (Josef and Wilhelm Rieder) and pp. 60 *et seq.* (Ferdinand and Luitpold Schweizer); the latter example also shows the quite different reactions of the same man under the influence of wives of different types.

In Nazi Germany the "biological partner rule" provided a theoretical foundation for a marriage prohibition in respect of grave criminals (Ehegesundheitsgesetz of October 18 1935 sect. 1). However, such a prohibition, which is found also in some American states, is obviously based on an insufficient foundation. A marriage with a good partner *may* socialise a longstanding criminal, in particular of the weak-willed type of character and, everything considered, it may be desirable that such a marriage be contracted. Whether or not there is reason to expect a favourable development must depend on an investigation of the particular case. This is indeed what happens in practice when questions of reprieve, probation, etc., are decided, having regard to a prospective marriage.

Further, it should be noted that there exist a great many investigations of the marital relations of perpetrators of *particular types of crime:* sexual offenders, frauds, etc. The results must be characterised as vague. From Danish literature *le Maire* states in his work Legal Kastration, 1946, pp. 101—02, that he found

the sexual crime rate to be much lower among the husbands than in the other groups, more particularly in the group of the divorced. Foreign statistics, on the other hand, have shown comparatively high sexual crime rates among the married, *vide, e. g., Roesner* in HdK I, Berlin 1933, p. 407.

PART V:
THE CRIMINAL SITUATION AND THE DEED

62.

THE CRIMINAL SITUATION.

So far we have constantly been concerned with the personal and social conditions or *background* of the crime. Lines have been drawn from the criminal behaviour backwards in time to heredity, conditions in childhood and early adolescence and other factors of importance and to social or environmental conditions preparing the soil for criminality. In these investigations it has, as a rule, been necessary to abstract from the *criminal situation* itself, *i. e.* from the constellation of circumstances existing immediately at and around the commission and preparation of the criminal act.

This situation, designated also as *the deed situation, the conflict situation* or *the constellation,* is, however, of the greatest criminological interest. And it may be considered not only as *releasing* or secondary in relation to underlying deeper factors of the nature referred to so far, but in many cases the constellation of circumstances around the time of action should be viewed as the actual or primary explanation of a criminal act for which one will look in vain for a deeper cause. The situation here gives rise to a criminality of which it may justly be said that it is due to *chance.*

In a general survey of criminology it is impossible systematically to review all of the elements making up the deed situation. Even if the subject be limited to certain typical situation factors,

it is still too wide for general criminology. Account should also be taken of the parts of the subject which are being specially dealt with in other branches of criminal science, in particular in criminal law.

The empirical investigations into the crime situation which, in the nature of things, fall under criminology seem most profitable if conducted with reference to *particular categories of crime,* thus coming under special criminology.

Vide, for examples of such investigations, the treatises by *Hess,* induced by Exner, Die Kinderschändigung mit besonderer Berücksichtigung der Tatsituation; *Teichmann,* Meineidige und Meineidsituationen; *Raumer,* Räuber und Raubsituationen; *Eber,* Die Blutschande, unter besonderer Berücksichtigung der Tatsituation; *Manglkammer,* Der Widerstand gegen Vollstreckungsbeamte (Kriminalistische Abhandlungen herausgegeben von Franz Exner, Nos. 20, 21, 28, 30 and 36).—*Vide,* also, *Kinberg, Inghe* and *Riemer*'s incest investigation, pp. 290 *et seq.*

Through investigations of this nature is it possible to point out typical directly causal elements and to relate them to the underlying personality and environmental factors which have constituted the main field of criminological research.

In the sequel will be discussed only a few more important features to throw light upon the nature and importance of the situation factors. To these will be added (pp. 368 *et seq.*) some observations on the actual criminal *deed,* viewed from a criminological angle.

The importance of the situation factors to the genesis of the criminal act is illustrated by *David Abrahamsen,* Crime and the Mind, London 1945, p. 27, in the following equation (where C stands for Crime, T for Tendencies, S for Situation and R for Resistance):

$$C = \frac{T+S}{R}$$

Inner and Outer Criminal Situation.

The situation factors, like the personality, are made up of endogenous and exogenous elements. Though these elements are often impossible of separation in practice, a distinction may be drawn in theory between *an inner and an outer criminal situation.* These terms refer respectively to the psychic predisposition of the perpetrator to the crime at and about the time of the action, and to the objective cause and possibility of its commission.

They are derived from *Exner, vide,* further, Kriminalbiologie, Hamburg 1939, pp. 317 *et seq.* The criminal act, *die Tat,* is here related to *the environmental conditions* at its commission and to *the personality.* Each of these three factors may be considered as quantities of an equation: if the two are known, the third may be deduced.

As examples of *typical "inner criminal situations"* (the psychic condition in which the act is decided upon and/or committed) Exner mentions: intoxication, affect, sexual desire, covetousness. However, the concept extends beyond such typical conditions. Any motive may be the core of an inner criminal situation and not only the motives, but the whole "mental environment", such as psychic exhaustion and psychic dependance, is of importance in this connection.

As examples of typical *"outer criminal situations"* are mentioned compulsion situations, such as material distress and a particularly favourable or temptatious "opportunity" to commit the forbidden act; and the part played by the very victim of the crime in the commission of the crime, *e. g.* in the case of sexual crimes and fraud, is pointed out.—A distinction may be made between the crimes presupposing a quite special criminal situation, *e. g.* false evidence in court, and others which do not presuppose such a special situation, *e. g.* larceny and violence.

Dynamic and Static Situation Factors.

Among the situation factors leading to specific anti-social behaviour, *Kinberg* discriminates between dynamic factors, which actively drive the individual to a certain act, and static factors, which passively promote the same behaviour by diminishing the

inner resistance to it. The dynamic factors possess a certain living power, a certain motive energy, and are felt by the individual as a desire, a yearning, a craving, a drive for something. The static, passive factors, more often than not, constitute an existing state in the individual, a lack of something, an absence of resisting power against certain behaviour impulses.

Vide, further, *Kinberg, Inghe,* and *Riemer,* Incestproblemet, Stockholm 1943, pp. 291 *et seq.,* with reference to earlier publications by Kinberg.—The authors recognise that it is not always possible to make a clear-cut distinction between the two groups of factors.—In the incest situation the dynamic factor is the want of sexual satisfaction of the incestuous person. As examples of more accidental *dynamic* factors in this situation are mentioned certain sensory impressions (the sight of a naked woman, words of sexual import, etc.). Also, the particularly favourable opportunity is said to be able to "operate as an accidental dynamic factor", but this breaks up the authors' definition, as the opportunity or occasion to commit the crime cannot, indeed, very well be said to have a certain motive energy or to be experienced as a drive, etc.—Among the *static* factors are both psychological and social (environmental) factors, such as psychic abnormalities, invalidity, physical diseases, depressed frame of mind in connection with a dreary and prospectless existence, emotional isolation as well as such more accidental static factors as deep exhaustion with listlessness, depression and disturbance, which may lead to a desperate reaction. This state of mind may successively contain static and dynamic elements. The authors mention other factors, too, which alternately or combined may operate statically as well as dynamically, namely intoxication and living in crowded housing conditions. Finally, the authors make the static factors include "the general environmental conditions, the social and individual deterioration, the defective development or the dissolution of the normal family relations, the low cultural level, the absence of stabilising social contacts, the poor development of moral and social feelings in general, to put it briefly: the absence of all of the powers which in biologically better equipped and socially and culturally higher developed individuals constitute definite inhibitions against satisfying the sexual desire through incest.".

Situation of Preparation and Situation of Perpetration.

Interest has chiefly centred on the situation of perpetration. In the case of crimes involving previous activity, planning or consideration, however, the situation surrounding such earlier stages is also relevant from the point of view of criminal law and criminology. The problem of motivation are associated in particular with these stages. There is here an *original conflict situation,* as distinguished from the situation at the time of the action. Similarly, in the case of recidivism, an original conflict may be separated at the commencement of the action, as opposed to the condition thus established and the conclusion of the action. For example, in the case of treason consisting in German war service during the occupation of Denmark, typical psychological and social features have become apparent at the commencement of the situation, including—as emphasised by Doctor *Max Schmidt*—the unbalanced condition of the pubertal period and high-strung notions of honour in contrast to a dull bourgeois environment, essentially different from the situation around the series of crimes which then in many cases took place under the brutalising influence of the new environment.

Chosen and Unchosen Situation.

As a rule, a clear distinction may be made between the cases where an individual prepares a crime by creating or seeking himself the situation in which it is capable of execution, and the cases where the situation comes to him from outside, by chance and with no action on his part to bring it about. On the one hand we have, for example, the thief making for the place appropriate for a breaking-in, the fraud selecting his victim, the homicide or the sexual criminal waylaying a person; on the other hand, for example, cases where an unexpectedly favourable opportunity for theft is improved, an object found is appropriated, violence or murder is committed during a casual brawl, the chance encounter of a woman or a child in a desolate place gives

rise to a sexual crime, etc. This distinction is of crucial importance to the crimino-psychological view, the criminological causal judgment and the legal evaluation. Very often, however, account must be taken of transitional forms both in a subjective and an objective respect. The criminal may, more or less consciously, have prepared the situation in a wider sense, built up a psychological preparation for its commission by allowing his thoughts to dwell upon it, vaguely or more precisely, and this may have prompted him to make for surroundings affording a favourable possibility for committing the crime though with no definite resolution on his part; or in circumstances where his conscious ego has definitely dismissed the idea of the crime, while unconscious or vaguely conscious impulses drive him on towards the temptatious situation. The commission of the crime may then depend on an outside event and yet not be a purely accidental crime.

From the typically chosen situations to the typically accidental situations is a scale of typical behaviour patterns, from active preparations, by way of passive drifting towards the goal, to absolute unpreparedness; but this scale is also capable of registering the degree of the intensity and the extent to which the personality takes part in the genesis of the criminal act. As a general rule, the endogenous elements incorporated in the term personality will be present most frequently in the crime of the chosen situation and least frequently in the crimes of the accidental situation. This does not hold good for all cases, though. The accidental situation, for example, may happen to a criminal personality which finds its fully adequate expression in this situation.

Dangerous Situations.

Kinberg, who has analysed the so-called "dangerous situations" in a number of publications, discriminates[1]) between cases where the predominating feature of the situation is a particular criminal

[1]) La prophylaxie du crime, Criminalia, Rome, 1927, pp. 185 *et seq.* (reprinted in Acta psychiatrica et neurologica, 1938).

risk in consequence of *the psycho-pathological reaction tendencies* of the individual or other peculiar traits indicating a criminal development, and cases where no such individual dangerous elements have made themselves felt, but where the situations, by their *objective character,* present a general criminal risk. In the former group of cases the prophylaxis must consist in removing the individual from the environment dangerous to him; in the latter cases the objective dangerous elements should be reduced as far as practicable, *e. g.* through preventive measures of control against embezzlement, the attraction of the attention of the public to such dangers, etc.

These views have been further enquired into by Kinberg with particular reference to the situation of embezzlement, *vide Kinberg* and *Riemer,* Förskingringsbrottet i sociologisk och psykopatologisk belysning, Svensk Juristtidning 1942, pp. 97 *et seq.,* and the incest situation, *vide Kinberg, Inghe and Riemer,* Incestproblemet i Sverige, 1943, pp. 290 *et seq.*

The treatise on embezzlement points out that the dangerous situations are characterised by two circumstances: 1) that the opportunity for crime ("the social pull") exists and, therefore, need not be looked for; 2) that the very situation presents an inner or outer factor making for crime, a compulsion factor which may be of a social nature (as in the case of embezzlement) or of a personal nature (hypersexuality in the case of incest) or which may depend on a pathologically changed conception of realities (as in the case of family murder where the perpetrator believes that he can save the children from perdition by killing them before they have got time to commit serious sins). — In describing the incest situation as dangerous, it is characterised as *objectively dangerous* if due to the psychological and social environmental conditions of the incestuous person, and as *subjectively dangerous* if the question as to whether the situation shall become dangerous to *him* depends on his individual make-up (disposition, morbid changes in the brain).

In this connection it seems adequate to restrict the concept of a dangerous situation to ones having the common characteristic

of being crimogenic not only individually, but in relation to large groups of persons or, to put it differently, of *presenting an objective or typical dangerousness.*

Characteristic of such situations is that they present a special *temptation.* Natural and practically relevant distinctions within the dangerous situations are capable of being made according to the nature and degree of the temptations.

Certain dangerous situations created artificially partly by legislators and administrators are of such nature that *even the average law-abiding citizen is tempted to violate the law and very often succumbs to the temptation.* This is true, in particular, of certain customs-act provisions, ill-advised emergency and police regulations, etc.

Other situations, though presenting no great danger to the majority of mankind with a more or less stabilised social morality because the behaviour to which they tempt is rejected by most people as dishonourable, are a *fatal temptation to weak characters who in general have no criminal propensities* and who could easily be kept law-abiding if they did not run up against a too powerful prompting and an easy chance to act in conflict with the law. Here, the small risk of detection in connection with inadequate safety measures, an inefficient police, etc., helps essentially to create the dangerous situation. One of the practically most important measures of criminal policy is to prevent the occurrence and the spreading of such situations. Examples of specially appropriate counter-measures include interdictions against leaving bicycles and motorcars unlocked or ready for driving, provisions making it difficult to sell stolen goods, audit and supervision regulations for banks, savings-banks, executors and others administrating trust property, and many similar rules. All provisions of this nature may be embodied under a wider principle aiming at "fencing the values" in preference to "fencing the criminals".

Other situations are dangerous in the sense that they *break*

down inhibitions against criminal acts in many who under normal conditions are immune to criminal promptings. Of these the most important are the situations arising from a state of *intoxication.* Here, the prophylaxis consists in the code of provisions and measures restricting and controlling the consumption of alcohol (licensing acts, taxes on spirits, etc.) and surrounding it with a network of preventive legislative provisions, which permit intervention before any serious crimes take place. — Then come the situations arising in times of unrest when a crowd is resorting to personal violence. The *mass situation* with its increased possibilities of suggestive influence, of outlet for aggressive tendencies, revenge and covetousness without the normal risk of opposition and punishment, is, in fact, one of the most typical examples of the importance of the situational factors and is, perhaps, the situation which has attracted the greatest crimino-psychological interest. In the face of the technical possibilities of our age to diffuse suggestive mass propaganda through the radio, etc., with no direct gathering of crowds, however, attention should be directed not only towards the classical mass situation, but also towards other forms of hypnotism of the masses. In particular, experience has taught us the great dangers of the rallying of large groups around a destructive programme camouflaged as idealism, more particularly where such groups are welded together in uniformed masses. The foundation is then laid for a criminal group morality, for a perverted *esprit-de-corps,* capable of breaking down all normal individual barriers against criminal acts. The efforts to prevent such a situation from arising by prohibiting the wearing of uniforms, and directed against extreme political movements, imply a proper recognition of penal policy.

Mass crimes and their psychology cannot be gone into here in greater detail. Of the more wellknown monographs on the subject may be mentioned *Sighele,* La folla delinquente, Turin 1891 (French edition, Les foules criminelles, Vigny 1892); *Tarde,* L'opinion et la foule, Paris 1901; *le Bon,* Psychologie des foules,

Paris 1912; *vide,* of more recent literature, *Th. Geiger,* Die Masse und ihre Aktion, Stuttgart 1926; *A. Joussain,* Psychologie des masses, Paris 1937; *K. Baschwitz,* Massan och du, Stockholm 1941; *Bengt Lundberg,* Begreppet Psykologisk Massa, Lund 1942 (reviewed by *H. Helweg* in NTfS 1942, pp. 56 *et seq.*); with particular reference to *war conditions,* the problem has been treated among others by *M. Conway,* The Crowd in Peace and War, London 1915; *B. Gadelius,* Kriget och massornas själ, Stockholm 1916; *W. Trotter,* Instincts of the Herd in Peace and War, London 1921; *O. Kinberg,* Den nationella massans psykopatologiska drag som krigsfaktor, Stockholm 1936; *Georg Cohn,* Kan Krig forhindres? Copenhagen 1945, pp. 134 *et seq.*

A controversial basic question is whether the special reactions of the crowd can be sufficiently explained by objective elements and individual-psychological factors or whether there exists a "joint will", a "herd soul", a "superindividual conscious life", etc., *vide,* against this latter mystical assumption, *Stephan Hurwitz,* Kollektive Enheders pønale Ansvar (The Criminal Responsibility of Collective Units), Copenhagen 1933, pp. 36 *et seq.*, cf., on the other hand, *Cohn, op. cit.,* p. 138.

63.
THE DEED

The deed, the criminal act, is the classical domain of the criminal law. As far back as our knowledge of the application of punishment dates, we meet the deed as the starting-point of punishment. The criminal laws from the oldest times up to our days are catalogues of prohibited acts. For centuries the science of criminal law has been concerned with analysing and systematizing such acts.

The persons and *the environment* behind the crimes, on the other hand, have from the very beginning been the special sphere of criminological research. The criminologists have generally taken little interest in the criminal act itself. They have often taken it to be an isolated and causal phenomenon, given undue weight by public opinion and legal regulations.

This distinction between the criminal law and criminology is disappearing now. The criminal law, which, however, has never entirely lost sight of the subjective and objective factors underlying the crime, has step by step commenced to make the individual judgment of personality all-important in deciding the nature of the sanctions and, conversely, the importance of the deed in the assessment of personality has been strongly stressed in more recent criminology. In each of the two disciplines there are investigators who, from different starting-points, have reached the reconciliating view that the deed preserves its importance and criminalistic interest as a *symptom* (symptomatological view of crime).

In these circumstances it is particularly difficult to decide what questions concerning the deed theory should systematically be discussed in each of the two disciplines. The decision is bound to be more or less arbitrary. In this criminological survey only a few more general questions will be discussed as to the possibility of operating with a concept of crime or deed that is more or less independent of the penal regulation and as to the possibility of grouping certain characteristic forms of conduct under criminological types of behaviour. Further, some comments will be made on crimino-psychological questions particularly associated with the deed.

"Natural Crime".

One of the most important problems of criminology is the question as to what conclusions may be drawn from criminal behaviour about underlying abnormalities in character and environment. The first condition of any such formulation of the problem is, however, that the punishable act gives evidence at all of a particular animus or other special condition, in other words that the crime contains an element that is essentially different from non-criminal behaviour. Now there can clearly be no question of any actual characteristic of criminality as long as the latter is

taken to be identical with violation of the existing positive and arbitrary enactment of legal provisions with penal clauses[1]). The question is whether, independently of changing legal provisions, one may find a concept of crime that may afford a basis for criminological conclusions.

Such a concept is believed to have been found in the so-called *natural crime.*

The idea of the determination, arising from nature itself (God or human reason), of certain acts as crimes, independent of time and place, and, therefore, also of positive legal systems, is very old and has, in spite of all criticism, remained alive in various forms: in the belief in the ten commandments of the Mosaic law and in the commandments and prohibitions of other religious systems as revealed expressions of God's will, in the natural law doctrines of the seventeenth and eighteenth centuries and, in part, also in the arguments of our days for the punishment of war crimes and crimes against humanity with no preceding positive legal authority.

Here only the importance of this idea in more recent criminology will be mentioned. *Raffaele Garofalo* is the chief advocate of the use of the concept of "natural crime". By this term he understood acts which no civilised community can tolerate, being injurious to the community and contrary to elementary human fellow-feeling and to an instinctive feeling of honesty. The concept was supposed to include, in particular, personal injuries of an inhuman nature and gross violations of the property of others[2]). This definition leads to the sociological formulations discussed in the sequel.

If, on the other hand, the idea is to give the concept of natural crime a more literal sense so as to make it refer to acts which, by the course of nature, should be denounced everywhere and un-

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1) *Supra* pp. 18 *et seq.*

2) *R. Garofalo,* La criminologie, Paris 1890; American edition, Criminology, Boston 1914, pp. 4 f, 40 et seq., 51.

conditionally, it denotes a speculative reasoning that has nothing to do with criminology's empirical method of research, let alone the natural sciences. Nature knows of no criminal. The classification of an act as a crime denotes a social or cultural evaluation, not a natural-science analysis.

Vide *Ernst Beling* in MfK 1933, p. 455. — In Danish literature *Aug. Goll* has advanced similar views as Garofalo, *vide* Udvalgte Skrifter, 1940, p. 15.

The question of a natural or rational concept of crime has been dealt with also in Danish criminal literature, *vide Goos,* Om Forbrydelsen, 1878, pp. 11—28, and *Torp,* Strafferettens almindelige Del, 1905, pp. 200—205. As general characteristics of the crime, in conformity with "the nature of the case", it is stated here that there must be an imputable violation which, in the current opinion of the community, requires punishment. Though the concept of crime, accordingly, shall not be quite arbitrary, it has been stressed, however, by laying the emphasis on the public interest, that no definite characteristic can be attributed to the concept, but only certain norms or legislative clues to determining what should be penalised.

A modern variant of the theory of crime as contrary to nature is the view put forward, in medicine, that crime is *biologically* an *abnormal act.* This view imports an unwarranted generalisation from the special cases and groups of cases where psychic abnormality is an actual factor in crime.

Cf., against a general "disease theory" with reference to criminal acts, *Stephan Hurwitz* in Festskrift for Helweg, 1946, pp. 375 et seq. — A strong argument against this view is found in *Bonger,* Criminality and Economic Conditions, Boston 1916, pp. 377—81: From a biological point of view, he says, almost all crimes should be considered as normal acts. "The process that takes place in the brain of the gendarme when he kills a poacher who resists arrest is identical with that which takes place in the brain of the poacher killing the gendarme who pursues him. It is only the social environment which classes the second act rather than the first as a crime".

Sociological Points of View[1]).

Several attempts have been made in sociology to determine the concept of crime independently of the arbitrariness of the positive laws, trying to get at the essential common features of the social phenomena in the case of which penal measures are taken. As an example of definitions of this type may be mentioned the following: "*Crime is an act which is believed to be socially harmful by a group of people which has the power to enforce its beliefs*"[2]). The relativity of the positive-law concept of crime and its dependence on the conception of the group in power stand out more clearly here than in purely inspired definitions. The same thing is true when *Sutherland*[3]) emphasises the following elements as conditions of crime: 1) a value which is appreciated by a group which is politically important, 2) there must be members of the group who tend to endanger this value, and 3) coercion must be applied to a certain extent by group 1 to group 2 to protect the value; or when *Hooton*[4]) argues that these is one constant element in all conceptions of crime: the criminal act is always an offence against society sufficiently heinous to actuate a large proportion of the members of society to demand its punishment through legal processes and to secure such legislation and some measures for its enforcement.

Common to these and other attempts to describe crime is the emphasis on its *social harmfulness* as assumed by the factors in power.

It should be noted that the difference between sociological views and the legal views as to what should rationally be penalized is not so great as is often assumed. Since the Age of Enlightenment lawyers have followed the penal programme of confining the concept of crime to acts which violate or menace the proper-

1) *Supra*, pp. 219 *et seq.*
2) *J. L. Gillin*, Criminology and Penology, London 1927, p. 13.
3) Principles of Criminology, New York 1947, p. 19.
4) The American Criminal, Cambridge, United States of America, 1939, p. 7.

ty of others and thus social values, and the principle of protection has been so far applied that the penal tariff could be taken as a yardstick of the social values *(von Jhering)*.

It cannot be denied, of course, that many penal clauses have been maintained or introduced which do not serve any direct social purposes of protection, but meet sentimental demands for penal reactions, sometimes on fictive and irrational grounds, *vide Alf Ross,* Virkelighed og Gyldighed i Retslæren, 1934, pp. 372—731).

The question of the natural and the sociological concept of crime is, to some extent, associated with the question as to whether crime may be characterised as a breach of the *moral* or ethical norms of the community. As mentioned already, a distinction may be made, on the basis of differences in the severity of penalties, between grave criminality and contraventions of police regulations, etc. At the basis of this distinction is, again, an evaluation of the dangerousness to society of the particular behaviour and, in this connection, a moral evaluation. The general rule is that grave criminality is considered not only punishable, but also *condemnable according to conventional morals.*

The criminal law and the administration of criminal justice, it is true, must largely ignore the moral-ethical character of the individual offence and penalize according to broader, more tangible criteria, which admittedly very often result in a schism between moral and penal evaluations. However, one should not give undue weight to this division. Anyway, in a sound and effective penal system it is not intentional, but only due to a technical necessity and becomes manifest only in borderline cases, *cf. Stephan Hurwitz,* Kollektive Enheders pønale Ansvar (The Criminal Responsibility of Collective Units), pp. 76—77.

According to *Bonger,* An Introduction to Criminology, London 1936, pp. 1 *et seq.,* punishableness is but the formal criterion of the criminal act; in a more profound sense the latter belongs to the category of immoral actions in a sociological sense, *i. e.* it is "an anti-social action which is felt as such". Crime, however, is only one form of immoral action, generally the most serious

1) *Vide,* in this connection, *Emile Durkheim,* De la division du travail social, 4. édition, Paris 1922, pp. 35 *et seq.*

one: "Crime is a serious anti-social action to which the State re-acts consciously".

On the other hand, there is no doubt that outside the criminal sphere there are broad fields of morally objectionable patterns of behaviour, contrary to social and ethical norms. It is of considerable interest to compare such patterns of behaviour, their psychology, and the reactions against them, with criminal types of behaviour.

Vide, on the subject, *Torsten Eriksson,* Brott och Samhälle, Stockholm 1939, p. 21, whose examples of "social crimes" and "ethical crimes" respectively show the classification to be rather arbitrary.

Cf., in this connection, also *Ebbe Linde,* Brott och Straff, Stockholm 1930, discriminating between 1) samhällsbrott, *i. e.* acts which are injurious to the community (and therefore should be prohibited), 2) känslobrott, *i. e.* acts which are felt to be forbidden by the individual, and 3) lagbrott, *i. e.* violations of the criminal law.

Of essential importance is also *the inclusion by sociology of the penal norms under a wider system of conduct norms, vide,* in particular, the work by *Thorsten Sellin* referred to above, Culture Conflict and Crime, New York 1938. It should be noted that the author here advocates that criminologists should extend their studies to include at least the conduct norms embodied in the civil law (*op. cit.,* p. 39).

Further, mention should be made of *the systematisation of the social interests* to be found in sociological works and which supplement the traditional criminal-law classifications of the objects of protection.

Vide, e. g., Gillin, op. cit., p. 18, recounting *Small*'s and *Roscoe Pound*'s classifications of the social interests.

"Behaviour Systems".

One of sociology's contributions to the theory of crime has been that of pointing out definite *behaviour systems in crime.*

Though the behaviour systems which are discussed in detail are partly specifically American phenomena (such as various forms of kidnapping, circus grifting, etc.), the principal views of the theory of behaviour systems are of general criminological interest. In the sequel a summary will be given of *Sutherland*'s exposition of the subject, *vide,* further, Principles of Criminology, New York 1947, pp. 218—30.

Most of the scientific work in criminology has been directed at the explanation of crime in general. Criminality, however, consists of a great variety of criminal acts. These acts must be broken up into more homogeneous units, and criminology must concentrate on specific crimes, just as medical science has concentrated on the study of specific diseases.

However, what is a specific crime? The legal definition cannot be determining. A classification must be made into sociological units with which particular behaviour systems are associated. Characteristics of such systems are, *inter alia,* the following:

1) There is a form of behaviour common to several persons. It operates in the same manner in a large number of persons and therefore it should be possible to find causal factors and processes which are not unique to the particular individual.

2) Among such persons there is a feeling of identification. — In this connection should be mentioned the *criminal code* which develops among the members of a gang and, in general, in the underworld and which, for example, may result in a strict observation of rules concerning the division of the loot, mutual solidarity regardless of personal risk, etc.

If a behaviour system can be isolated, the problem is to explain that system as a unit. This is similar to an attempt to explain other special behaviour systems, such as the behaviour associated with the exercise of a particular sport.

Sutherland then discusses particular types of behaviour systems. The most important one is *professional theft.* With reference to

conditions in the United States this behaviour system is described as follows: Professional thieves make a regular business of theft. They use techniques which have been developed over a period of centuries. They have special codes of behaviour and a high status among other thieves and in the criminal underworld in general. They have differential association in the sense that they associate with each other and not, on the same basis, with outsiders. They have developed a common language, a special argot.

How does this behaviour system originate and how is it perpetuated? The motives of professional thieves are much the same as the motives of other occupational groups: They wish to make money in safety. The author further describes how the American professional thief guards against detection, arrest and conviction.

64.
CLASSIFICATIONS OF CRIMES

The criminal-law classification of crimes is primarily a classification according to the nature of the interests against which the crimes are directed ("the social values"). In each main group of crime—homicide, assault, libel and disturbance of the peace, sexual crimes, crimes against property, etc. — certain typical offences have been penalized, as well as some acts and omissions of a less typical and central nature which have a certain connection with, or present a certain danger to the interests which should primarily be protected. The demarcation of the particular offences is often influenced by less rational historical and traditional considerations, and the legal classifications and demarcations of the crimes may also appear irrational, in particular to those who look for a connection according to psychological and subjective criteria in preference to one relating to the nature of the violated interests. On the other hand, however, it should be recognised that the general legal systematology, as it finds expression in the distinction criminal statisticians make between crimes against the State, crimes against property, crimes of violence and sexual crimes, and similar large groups of crime determined by the

object, is pretty much in conformity with sociologically determined classifications. Further, it must be recognised that the large traditional groups of crime are to some extent associated with characteristic groups of criminal offenders, which goes to show that these groups are other and more than artificial, formal groupings. In all essentials, the concepts of crime have had an organic development in conformity with the practical need for penal reactions to particular types of behaviour.

Accordingly, it cannot be incumbent on criminology to develop a radically new classification of crimes. The criminal-law systematology contains, at least in its basic features, a classification which, though provisional as all classifications are, may serve as a basis for criminological research. The main task of the latter in the field of classification is no doubt to classify not punishable acts but criminal types.

There has been no lack of attempts to replace the general classifications of crime by classifications originating from fundamentally different starting-points, more particularly according to *the motive* of the perpetrator. As regards the somewhat older legal discussion thereof, *vide* in particular *von Liszt,* Die psychologischen Grundlagen der Kriminalpolitik, Strafrechtliche Aufsätze II, Berlin 1905, pp. 174—82 and 194—206. The critical reflections stated in this treatise against attributing primary importance to the motive in criminal law have not been disproved later. The question cannot be discussed in any detail here; it will be touched upon again on p. 389 below, but comes in general under the central problems of criminal science.

In more recent criminological literature this question of motive crops up again and again and is often answered in such a way as to establish most uncertain and disputable *subjective factors back of the motive* (drive, instinct) as characteristics of the criminal classification, *vide, e. g., Albert Warren Stearns,* The Personality of Criminals, Boston 1931, who wants to replace the classification of crime according to the nature of the social values by a classification according to criteria such as acquisitive instinct, fighting instinct, sexual drive, etc.

As an example of an entirely different system of classifying crimes, derived from sociological views, may be mentioned the system outlined by *Thorsten Sellin,* Culture Conflict and Crime, New York 1938, pp. 36 *et seq.,* according to which the *intensity of the community reaction,* as expressed by the degree of severity of the penalty, should form the basis of the classification. In this connection, however, it should be noted that the maximum in the scales of penalties affords no reliable measure of the intensity of the community's actual reaction, and that a classification taking account not of the scales of penalties, but of the penalty actually applied, could not be applied unless the current classification of crimes were retained.

On the other hand, criminology (like the criminal law) may in various ways *supplement* and *modify* the traditional concepts of crime and systems of classification.

This is of peculiar importance in connection with the classifications according to criminal types referred to below, where it may sometimes be expedient to *embody under one type persons who have been included under different categories of crime by the criminal law* or to separate from a particular group of offenders certain cases where the criminal-law classification is not in conformity with the general criminal type of the group. As an example it may be mentioned that the incest provisions of the Danish criminal law (sect. 210) fall outside its chapter on sexual crimes, but criminologically are closely associated with the latter and in many investigations are included under them. Conversely, the chapter on sexual crimes (chapter 24) contains a number of provisions on commercialised vice (procuring, etc.), which psychologically are closer related to other forms of illicit traffic than to typical sexual crimes (rape, obscenity, etc.) and criminologically, as a rule, are kept separate from the latter.

Vide, in this connection, *Georg Schwab* in MfK 1941, pp. 217 *et seq.,* on the application of crimino-sociological criminal types on the basis of a classification of crimes irrespective of the motive but with, for example, blackmail and libels included under

crimes of violence because the aggressive factor is considered decisive.

There is no question of a fundamental contrast between the criminal law and criminology, as regards the delimitation of crimes. The criminal law systematisation is not complete and is still open to revision, also in accordance with a deeper psychological understanding.

It often happens that criminological works and investigations are based on *new concepts of crime* which constitute a synthesis of various concepts as envolved by the criminal law. An example is the category of "*breach of trust*" set up by *Karl O. Christiansen* (with the attending criminal type of "trust breaker"), which is meant to constitute a peculiar type of crime in a criminalistic respect.

Vide NTfS 1945, pp. 27 *et seq.* — The author gives no clear definition of the concept established, but points out that the majority of the so-called crimes against property may be viewed as more or less grave breaches of trust. A distinction is made between grave, medium and mild breaches of trust according to the degree of the trust broken by the punishable act. While, for example, embezzlement and family thefts are grave breaches of trust, grand larceny, robbery and certain cases of murder are characterised as mild breaches of trust. This terminology is inappropriate anyway. The examples given by the author of the different groups of breaches of trust are in several cases disputable or untenable, for instance when forgery of the name of a relative is characterised as a grave breach of trust and forgery of af fictitious name as a mild breach of trust; for the degree of the breach of trust must depend on the confidence of the person who is deceived, not of the person whose name is used. Of more importance, however, is the vagueness of the concept. If breaches of trust are taken to include not only breaches of relations of trust in a more narrow, individual sense, but also breaches of the relation of trust which exists (or should exist) between the community and the citizens, almost any crime may be characterised as a breach of trust.

Even if, by the development of such a new concept, the author

concerned succeeds in calling attention to a psychologically or sociologically essential fact, it may be rather confusing if such new concepts of crime with no sharp line of demarcation are applied in accounts of investigations of prisoners or other criminal investigations, possibly with statistical data. Its application here presupposes very precise indications of the scope of the concept.

The criminological surveys operate with a large number of classifications of crimes according to *the degree of severity* of the criminality, for example petty criminality, as opposed to grave criminality: its *dangerousness,* its conformity with the character of the criminal or its accidental nature in relation to his character. Such distinctions are generally closely associated with the classification of criminal personalities, *cf.* the following chapter.

PART VI:
CLASSIFICATION AND PROGNOSIS

65
INTRODUCTION

Criminological literature presents a multifaceted variety of attempts to provide an adequate *classification of criminals.* To go through all these attempts at classification would be impracticable and of insufficient interest. If, in a recent investigation, it is said that any criminologist, even a second-rate one, may have his own classification, this is a pertinent, though exaggerated, characterisation of the situation. To those who are inclined to give up any classification because there are so many, and individual cases are so peculiar—"there are as many classes as there are offenders"—it should be argued that it is both possible and necessary to establish certain important groupings of offenders with a view to their criminological characterisation and their treatment from the point of view of penal policy.

Considering from how many different aspects the problem may be viewed, it is little wonder that there still exist so many different classifications of criminals. In point of fact, it can by no means be expected that a single classification, adequate in all respects, can be reached. The problem of classification can only be solved by pointing out a number of elements of criminological importance and, *in relation to each of such elements,* by grouping offenders according to the features which are typical in this relation. In this way, as will be seen below, it is possible to provide a number of practical and important classifications of criminal persons, arranged according to the points of view of etiology, psychology, criminal sociology and penal policy (treatment).

Nor, in the case of such more differentiated classifications, however, may one expect to find clear and complete typifications. Any classification is of a temporary nature. It is a provisional statement of balance which must be constantly revised under the influence of new experience.

Before individual criminal types are discussed in the light of the views set out, an historical account of the more important general classifications of criminals will be given, originating with *Lombroso, Enrico Ferri, Wahlberg* and *von Liszt.*

Already at very early stages of the history of penology children and insane persons have been excepted from the scope of general penal clauses; and long before the development of a scientific criminology distinctions have been made according to *the animus* of the criminals, stressing, *inter alia,* the dishonourarble animus as a qualifying ground, as well as between penalties for first offences and for repeated offences. The criminal habit (consuetudo delinquendi) thus plays a part in the medieval, Italian doctrine and in European penology, which has been influenced by it, *vide Eyvind Olrik* in TfR 1893, p. 183. However, only when the study of criminal personalities comes to the fore towards the end of the last century, do more systematic attempts at classification appear, with different criminal types as their basis.

In his principal work, l'Uomo delinquente, *Lombroso* divides criminals into the following groups: 1) *the born criminal* (delinquente nato), 2) *the epileptic criminal,* 3) *the criminal of irresistible passion* (delinquente d'impeto passione (forza irresistibile)), 4) *the insane and the feebleminded criminal* (delinquente pazzo), including individuals of borderline mentality (mattoïde), and 5) *the occasional offender* (delinquente d'occasione). As will be seen, the first four of these groups are all psycho-pathologically characterised. — Lombroso himself characterises the born criminal as morally insane (pazzo morale) — and, in actual fact, the classification may be reduced to a main distinction between abnormal and normal criminals. Lombroso has later broken down the group of *occasional offenders into three subgroups:* a) *pseudo-criminal,* characterised as persons who have committed the indictable offence unintentionally or under the influence of quite exceptional circumstances (self-defence and the like), b)

criminaloid, having reference to persons who are milder variants of the born criminal, and c) *the persistent offender of non-abnormal type,* including many members of criminal gangs (Lombroso, Crime, Its Causes and Remedies, London 1911, pp. XXXVI f.). It is confusing that offenders of the last-mentioned type are included within the designation of occasional offenders and the systematisation is somewhat vague, but it has preserved a certain interest as a background for the more elaborate classifications of later times.

Enrico Ferri emphasises the distinction between *habitual offenders* and *occasional offenders* as the basic one. Within the former group he discriminates again between the *obviously insane or feebleminded,* the mental *deviates with innate tendencies for criminality* (born criminals or what, now, we call psychopathic personalities) and *persistent early criminals* whose criminality is due, in particular, to adverse environmental factors. The occasional offenders are divided into those whose criminal act is due to an *external influence with no special psychological conditions* (though a certain disposition must be presupposed) and those who are driven to crime only under the influence of a special *passion,* "a sort of psychological storm". This *division* of the offenders *into five categories* was advanced by Ferri in 1880 and it has since played an important part. An account of the classification has been given by Ferri, *inter alia* in Sociologia criminale, Torino, 3rd ed., 1892, pp. 137 *et seq.* (English edition, Criminal Sociology, London 1895, pp. 23 *et seq.,* 42 f.). Prior to the Italian School and independently of the latter *W. E. Wahlberg,* the Austrian penologist, whose principal work, Das Prinzip der Individualisierung in der Strafrechtspflege, was published already in 1869, has stressed the sociological and psychological difference between habitual offenders *(Gewohnheitsverbrecher)* and occasional offenders *(Gelegenheitsverbrecher).* And Wahlberg's works, which were considered pioneering by *Liszt,* were made the basis by the latter of a more detailed classification that was also of decisive importance to practical penal policy through Internationale Kriminalistvereinigung.

Franz von Liszt discriminates between *momentary offenders, corrigible* and *incorrigible permanent offenders, vide* the treatise Die psychologischen Grundlagen der Kriminalpolitik, ZfS 1896, pp. 477 *et seq.,* Strafrechtliche Aufsätze und Vorträge, II, Berlin

1905, pp. 170 *et seq.* The classification is directly related to purposes of penal policy: the development of a sanctionary system applying "deterrent punishment" (in particular fines and imprisonment) to the momentary offender, "educational and correctional punishment" (in particular consignment to the workhouse) to the corrigible persistent offender, and "preventive punishment" (neutralisation) to the incorrigible permanent offenders.

This classification, as compared with those of Lombroso and Ferri, is distinguished by its clarity, logic and practical applicability. In particular, it is not tainted with the error that characterises the Italian classifications where groups developed according to heterogeneous views of classification are classified as co-ordinate. On the other hand it is obvious, however, that it is not and does not pretend to be complete. It has thus quite ignored the abnormal, legally irresponsible offenders and, even apart from this fact, more recent penal policy requires a wider differentiation.

As regards Liszt's terminology, it should be noted that the terms *momentary* and *permanent offenders* aim at the same distinction that is generally implied by the terms occasional and habitual offenders respectively. The term occasional offender is given up only because it covers also persons who strictly speaking do not belong to this category, *viz.* recidivists who take advantage of any opportunity to steal, deceive, etc., and the term habitual offender is considered misleading because psychologically it is often incorrect to talk of actual habits in chronic offenders; in the latter the professional or occupational feature of criminality, not the habit, is very often the essential thing. In the face of this criticism of the still widely used terminology of occasional offender and habitual offender it should be noted, however, that it is hardly possible fully to characterise the groups concerned in one word, and that the terms preferred by von Liszt do not appear more adequate than the terms he rejects.

This tripartition forms the basis of the classification included in its programme in the year 1897 by the *International Association of Criminalists*. This classification distinguishes, from the point of view of penal policy, between the following criminal types[1]):

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1) Mitteilungen der internationalen Kriminalistischen Vereinigung, 6, p. 582.

1. *Momentary or occasional offenders.*
2. *Offenders whose ability to adjust themselves to the existing norms is considerably reduced and who are hardly susceptible of correction through penalties of fines or imprisonment of short duration.*
3. *Offenders whose adjustment to society is no longer to be expected.*

66.
ETIOLOGICAL TYPES

The attention of criminological research has been particularly focussed on unravelling the *causal* relationship between crime, perpetrator and environment. This research has established the classification referred to above which discriminates between 1) offenders whose criminality is chiefly *endogenously* determined, 2) offenders whose criminality is more or less *equally determined by endogenous and exogenous factors,* and 3) offenders whose criminality is chiefly *exogenously* determined.

This classification still affords some guidance but it has been increasingly recognised how flowing are the transitions between these groups. Etiological types in criminology should certainly be more carefully established than hitherto. What has been characterised as causal relationship here is far more doubtful and complex in character than the relationships that in natural science have been included under the concept of cause. As to the determinants of human behaviour, one can seldom do more than calculate certain correlations between different series of phenomena. Classifications of criminals based on more solid causal criteria must of necessity be most hypothetical in character.

In the tripartition on an etiological basis referred to above distinctions are made according to very general and vague criteria. If attempts are made to give more solidity to the distinctions by emphasising particular elements as "cause" or "main cause" of the criminality of the individual concerned and if, further, at-

tempts are made to establish different criminal types on this basis, the results are liable to be arbitrary and accidental.

The best known attempts to determine the causal elements in large groups of offenders have been made by *William Healy,* The Individual Delinquent, London 1915, and *Cyril Burt,* The Young Delinquent, London, 1st ed. 1925. Their results are very different. *Reckless,* Criminal Behaviour, New York 1940, p. 176, calls attention to the fact that Healy found 3.5 causative factors per case among 823 young recidivists, while Burt found slightly more than 9 factors per case. This comparison shows, says Reckless, that the number of causative factors depends on what the author considers as such.

67.
CRIMINO-PSYCHOLOGICAL TYPES

Classifications according to the *character* of the offenders come first. How far it is possible to get here depends on general characterological research supplemented by criminological views. As already mentioned, there is no such thing as a general "criminal character". In the case of particular types of crime, on the other hand, *characteristic types of perpetrators* and *uncharacteristic perpetrators* may be pointed out. Of special criminological importance is further *whether the particular criminal behaviour is in conformity with the character of the individual* or must be considered *foreign to his character* (psychologically accidental). As regards certain sanctions, more recent criminal legislation has made their application subject to the criminality being due to specified character traits, *vide, e. g.,* the Danish Criminal Law, sect. 41 under which a sentence to a juvenile prison is subject to the crime committed "being considered a manifestation of criminal propensities or of being given to idleness or to associate with bad companions", sect. 62 under which a commitment to a work-house may be pronounced only where the crimes committed "must be considered a manifestation of being given to idleness and disorderly conduct".

A crimino-psychological classification which is often mentioned is a typification according to *motives*. This term, however, is ambiguous. If, in particular, one has in mind the motive behind the individual act, regardless of whether this motive is rooted in the general animus of the perpetrator, the classification according to motives becomes a classification of offences rather than of perpetrators, of whose psychic peculiarity it says nothing. And if motive is identified with animus, one is passing into the characterological classifications.

Vide, on the subject, further the treatise referred to above by *von Liszt,* Die psychologischen Grundlagen der Kriminalpolitik, ZfS 1896, pp. 477 *et seq.*

The classifications of motives to be found in different authors, either according to definite types of offence or more in general, chiefly relate to motives in relation to the concrete act, such as where a distinction is made between motives of economy, sexuality, politics, revenge, hate, pity, etc., or more generally between selfish and unselfish motives.

Among many other attempts at psychological classifications may be mentioned the distinction, suggested as early as in 1893 by *Eyvind Olrik* in a noteworthy treatise, between crimes giving evidence of 1) a comparatively weak criminal will, 2) a criminal will of average strength, and 3) a peculiar strength and firmness of the criminal will[1]). The criteria employed here, however, are too vague and psychologically questionable to form the basis of practical classifications. Further, like the classification by motives, this classification is too closely associated with the act to provide an actual psychological typification of the offenders.

Of greater interest than a distinction by "the criminal will" or any other single psychological criterion are distinctions according to more generally characterised "conducts of life". By way of example may be mentioned the five forms set up by *Hans W. Gruhle:* 1) criminals by *inclination* ("Neigung"), 2) criminals by

[1]) TfR 1893, pp. 27 *et seq.*

weakness, 3) criminals by *passion,* 4) criminals by *honour and conviction,* 5) criminals by *destitution.* Among the criminals by inclination a distinction is made, in turn, between *active* and *passive* personalities. To the active type belongs the energetic, brutal professional criminal. The passive type is not looking for crime but is prepared to commit it as a way out, with no inner rejection. In this particular it is distinguished from group 2), the weak individuals who act against their own fundamental principles when committing crimes[1]).

Gruhle's distinction is not complete, of course, but may form a basis for further development. It leads to distinctions placing the main emphasis on the offenders' own evaluation of the crime, *vide, e. g., Ebbe Linde*'s distinction between offenders with a clear conscience, with an uncoupled conscience and with a bad conscience[2]).

A classification in this direction is met with already in *Josef Kohler,* Verbrechertypen in Shakespeares Dramen, Berlin, pp. 2 et seq., where the author makes a principal distinction between criminals "of social ways" and "unscrupulous criminals". Under the former group are included "passionate criminals of egoistic impulse" (*e. g.* Macbeth, Richard III) and "passionate criminals of altruistic impulse" (Brutus, Cassius) and "occasional offenders" (Othello); examples of criminal types in Shakespeare of the unscrupulous category are Jago, Edmund, Cade.

In psychoanalytical theory are mentioned as a separate group criminals having a "criminal over-ego", *vide, e. g., Alexander* and *Staub,* Der Verbrecher und seine Richter, Vienna 1929, pp. 84 *et seq.*

Among the psychologically characterised criminal types *the occasional offender* and *the affectional offender* (as opposed to "the intentional offenders") are the types most frequently mentioned.

The characteristic feature of *the occasional offenders* in a

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1) Mitteilungen der kriminalbiologischen Gesellschaft, II, pp. 18 *et seq.*
2) Brott och straff, Stockholm 1930.

psychological sense must, if anything, be indicated negatively. This group of offenders has *no* pronounced anti-social or asocial features, it has no typical positive traits whatever in common, as distinguished from certain groups of habitual and professional criminals, but includes average individuals of all shades. A feature of the concept is that the individuals are not criminal in general but, as an exception only, have taken advantage of a special opportunity to commit an indictable offence. It is presupposed that they have not brought about this opportunity themselves, but that they have happened to encounter it, and that it presents a temptation beyond what everyday life in general offers. As a rule, the concept has reference to cases of a generally *excusable* character. Such cases have in common that the temptation is so great and the offence so comparatively trivial that a corresponding violation in this situation might be expected of numerous, generally honourable fellow-citizens. The typical example is the appropriation of an object found. Conversely, cases where the offence, though momentarily brought about by an external, special opportunity, is of such gravity that there is no reasonable, normal-psychological proportion between "the opportunity" and the deed, are generally excluded from the concept. The fact, for example, that a man takes advantage of a chance encounter with a postman in a desolate plantation to kill and rob him will generally not be characterised as an occasional crime. More uncertain is the conception in relation to certain intermediate forms. One may permit the concept of occasional offender to include some one who has committed a single situationally determined minor theft ("occasional theft"), but refuse to attach the same palliative designation to someone who on a momentary occasion has committed robbery or rape. The determining criterion of the occasional offender in this more narrow, somewhat vague sense is thus not the momentary, occasional feature of the crime, but *the combination of a particularly favourable opportunity and excusable behaviour*. Thus demarcated, the group has psychologically, as

mentioned, hardly any positive common characteristic. The one circumstance that may be pointed out is a certain weakness in the face of the temptation, a weakness which, in the case of theft at least, is in excess of that of the average population. Where not even such a negative feature is present, but where the indictable offence is of such a kind that practically speaking anybody might be guilty of it, *e. g.* in the case of many offences of negligence, one has to do with a group of cases which should be separated under a particular designation. In this connection one may talk of "*accidental* offenders".

The affectional criminal is psychologically an almost equally vague and ambiguous concept as is the occasional offender. In general usage affect denotes a strong excitement of a transitory nature and, accordingly, the affectional criminal is often taken to be an offender who has acted under the influence of such excitement, *vide, e. g.,* the Danish Criminal Law sect. 85 providing a milder penalty where a punishable act has been "committed under the influence of excitement or other transitory lack of mental balance", *cf.* also sect. 13, subsect. 2, on impunity for acts of violence in self-defence where such acts can be explained "by the fright or excitement brought about by the attack" and sect. 84, subsect. 1, No. 4, on a milder penalty or impunity, as the case may be, where a punishable act has been "committed in an agitated state of mind brought about by the injurer through an illegal assault or gross insult". — As opposed to this usage are other wider and narrower senses of affect (affectional criminals). Some include crimes sprung not only from a passing excitement, but from a longstanding, persistent *passion ("crime passional")*. Conversely, others restrict the concept by requiring not only an excitement in the general sense, but a downright storm of passion of irresistible force in order to talk of a penally relevant affect. And while some will admit affect as traceable possibly to external causes, possibly to internal disposition, others will admit affect on a constitutional basis only. In law a distinction

has also been made between "groundless" or "less well-founded" affects, as opposed to admittable affects (justus dolor).

It is not necessary, however, to go into these various determinations of concept and distinctions in greater detail. By the nature of the case, no hard-and-fast lines of demarcation can be drawn in the case of the emotional phenomena concerned. The psychological interest lies in showing that there are groups of offenders whose criminal behaviour to a particular degree is emotionally determined, and the question as to whether they should be included under the designation of affectional criminals or some more comprehensive designation, such as *emotional criminals,* is one of mere terminology. Their practical counter-part are criminals who by committing a punishable act are following a wise and advantageous purpose, more particularly a purpose of enrichment. On the one hand we have the incendiary who in a mood of nostalgia or in a state of inner disturbance and tension, inexplainable — in whole or in part — to himself, sets fire to a strange house and, on the other hand, the fraudulent incendiary who sets fire to his farm in order to get hold of the insurance sum. It should be stressed, however, that the differences are not always as plain as this. The crime of affect or emotion need not be purposeless or have no definite object, such as murders of jealousy or revenge committed in great exitement, and conversely, the apparently reasonable offences marked by covetousness and other practical motives and purposes are largely, in point of fact, dictated by emotional and instinctive drives (*supra,* p. 212).

The affectional offenders are sometimes classified as a subdivision of the occasional offenders. However, there is nothing to prevent the strongly emotional motivation, which accordingly must be considered characteristic of this group of offenders, from also being the predominating feature in criminals who by their persistent and grave criminality fall outside the group of occasional offenders.

Vide, on affectional acts and affectional criminals, further *Hans W. Gruhle* in HdK I, Berlin 1933, pp. 9 *et seq.* As main examples are mentioned extended suicide, murder of wife or fiancée, crimes of nostalgia, alcoholic acts of violence and epileptic affectional offences.

As to the proportion of affectional offenders among first offenders and recidivists respectively, *vide* survey by *Albert Schmid,* Anlage und Umwelt bei 500 Erstverbrechern, Krim. Abh. XXIV, Leipzig 1936, pp. 74—76 (16 and 12 per cent. respectively).

68.
PENAL-SOCIOLOGICAL TYPES

A typification of the offenders according to the nature of the punishable acts they have committed is conceivable. If we simply keep to the section or the group of sections under which the punishable act has been placed by the sentence, there is no special problem. We then arrive at divisions like those generally used in the criminal statistics if the number of convictions under each section of the criminal law is stated, and if they are embodied under heads like crimes against property, sexual crimes, crimes of violence, etc. The question is, however, if it is possible from the acts characterised in the Criminal Law to reach a typification of offenders based not only on the formal criteria of the law, but on actual, essential similarity among those subsumed under the same group *(material typicality,* as distinguished from *formal typicality).*

This question has received particular attention in the national-socialist German theory of penology. A theory of *"Tätertypen"* has been developed here indicating that, in public opinion, to a number of the patterns of behaviour penalised in the criminal law: murder, theft, ususry, procuring, cruelty to animals, etc., correspond particular types of perpetrators. This typification is based not only on a criminological personality investigation, but on the particular circumstances of the offence committed. The

point is whether these circumstances are of such a nature that—still according to public opinion—they characterise the guilty person as "murderer", "thief", "usurer", "procurer", "tormentor of animals" etc. If this is not so, the act is atypical, such as euthanasia on the part of a physician, and should not be subject to the penal clause concerned. If, conversely, the act is of the type, but is not formally covered by the clause, the latter should apply to it by way of analogy.

Vide, further, *Georg Dahm,* Der Tätertyp im Strafrecht, Leipzig 1940, with references.

Though this theory of types of perpetrators is strongly contestable—by its cultivation of "public opinion" it gives free play to arbitrariness and stresses external elements in the deed at the sacrifice of an actual investigation of the personality behind the deed, etc.—the very emphasis on the material typicality is of criminological interest. In the evaluation and characterisation of the criminals it is important to ascertain whether they present features which are typical of the perpetrators of specific types of crime. The task of developing the typology of the different crimes, however, is very comprehensive and difficult, and research in this field is still in its infancy.

Stürup and *Christiansen,* 335 Statsfængselsfanger, 1946 (unprinted), divide the sources investigated into eight criminal types: large-scale thieves, petty thieves, embezzlers, swindlers, trust breakers, sexual offenders, aggressors and polycriminals. The division does not follow the formal classification of the indictable offence in the sentence (the criminal law has no special penal clauses for "swindlers" nor for "trust breakers"), but is an attempt at a material typification, *vide* the critical comments on page 379 above concerning the group of trust breakers.—In respect of each of the criminal types concerned the authors have examined the incidence of social and mental defects. The investigation results in a division of the material into four main groups: 1) thieves and polycriminals, 2) embezzlers, 3) frauds and trust breakers, 4) sexual offenders and aggressors.

69.
CLASSIFICATION ACCORDING TO THE NATURE AND COURSE OF CRIMINALITY.

(Career Types, etc.)

The need to classify according to *safer, more objective characteristics* than those employed in the multifaceted classifications according to external and internal causes, motives, characters, etc., naturally leads to groupings of offenders according to obvious external elements in the course of their criminal career. Here the old, pre-criminological distinctions between non-recidivists and recidivists are raised to honour once more, but in a new light and supplemented with distinctions between acute and chronic criminals, early and late criminals, mild and grave criminals, different types of career, etc.

Such classifications may no doubt provide a valuable supplement to the sociologically and psychologically determined classifications. However, the development of systems based solely on characteristics determined by the application of the criminal law in force (number of convictions, time and term of commitments, etc.) implies no great conquest for criminology. From the point of view of criminology such classifications may be of importance as subsidiary systems, but the main interest is still in the investigation of personality and its systematology in greater independence of the existing penal sanctions.

Recidivists and Non-Recidivists.

The most simple distinction here is that between recidivists and non-recidivists. The term recidivist implies no more than that the person in question, after having been convicted, has offended once more. Previous conviction, however, must include certain substitutes (withdrawal of charge subject to public care, acceptance of fine, etc.). However, the term is also employed in wider and narrower senses: wider if it is taken to include persons who

have committed a succession of crimes with no intermediary conviction; narrower if it implies that the person in question relapses to the same type of crime as the original one (homologous recidivism), that he has served a term of a certain length, and that no more than a certain span of years has elapsed between the expiration of the former penalty and the new offence, *vide* the Criminal Law sect. 81 under which the effect of repetition ceases after five years.—The non-recidivists are often indiscriminately called *monodelinquents* and *first offenders*, the latter being those who have not yet, through a law-abiding period of some length, shown that their first crime is likely to be their last.

As for the numerical ratio between first offenders and recidivists according to Danish court statistics, *vide Krabbe*, Borgerlig Straffelov, 4th ed., 1947, p. 45. In the years prior to the coming into force of the new Criminal Law (1933) about 58 per cent. of the convicted men and about 77 per cent. of the women were first offenders. During the same period (1926—32) the rate of recidivism was 30.8 for men and 18.5 for women (calculated in relation to a period of 11 years). It was far higher in respect of young criminals (under 20 years of age) than for older criminals (over 30 years of age), *viz.* 47 and 15 per cent. respectively. The rate of recidivism was highest for crimes against property: 33 per cent., as against 20 per cent. for sexual crimes and 18 per cent. for bodily assaults. The majority of the relapses took place before the expiration of the first three years after conviction. The rate of recidivism was rising after each new relapse.—Convicted persons the execution of whose sentence has been suspended, showed much the same rate of recidivism as unconditionally convicted persons. An unprinted statistical survey drawn up by Dansk Værneselskab relating to persons the execution of whose sentences has been suspended, subject to supervision, from April 1 1937 to April 1 1940 shows that no less than 40 per cent. recidivated before 1945 and 26 per cent. during the period of supervision. These figures, however, are influenced by the exceptional conditions of the war years. No general statistics of recidivism for the time after the coming into force of the Criminal Law are available as yet and, in general, there are no detailed analyses

of the rate of recidivism in Denmark, *vide,* however, an earlier investigation by *Poul Gædeken,* Forbrydelsens Aarsager (The Causes of Crime), Tilskueren 1914, pp. 104 *et seq.,* and *Harry Trommer* in MfK 1930, pp. 435 *et seq.,* and, with particular reference to sexual offenders *Louis le Maire,* Legal Kastration, 1946, pp. 107 *et seq.*

An interesting Norwegian statistical analysis of recidivism is given by *Hartvig Nissen* in SvJT 1945, p. 460; it shows very much the same picture as the Danish one. The subject has been dealt with most thoroughly in Sweden by *Gunnar Dahlberg* and *Torgny Lindberg,* Om frekvensen av återfall i brott, Bilaga 3 til strafflagberedningens betänkande ang. verkställigheten av frihetsstraff m. m., SOU 1944:50 pp. 339—86, *vide,* in this connection, *Martti Kaila* in SvJT 1946, pp. 51 *et seq., Dahlberg* and *Lindberg, loc. cit.,* pp. 375 *et seq.* Dahlberg and Lindberg's results show that the following factors have proved particularly important to the rate of recidivism: the age, the nature of the offence (particularly the high rate of recidivism in the case of theft), diligence and conduct in the penal institution, alcoholism, but not the length of the prison term.—Of considerable interest is a statistical analysis undertaken by *Sverker Groth:* Återfall i brott åren 1921—1940, SOU 1947:71. The recidivism is related to the *capacity of recidivism* (dead, incarcerated and other persons who have not been capable of recidivating during the period under review being eliminated). The analysis confirms that the risk of recidivism is greatest during the first few years after discharge and that it increases with each new penal reaction. After the first penalty of imprisonment or penal servitude, the risk of recidivism, during the first year of discharge, is according to Groth 39.4 times that of the average population (Dahlberg and Lindberg have nearly the same rate (39.7) in respect of men). Further, Groth's investigation confirms the rate of recidivism to be above the average in respect of persons born out of wedlock. The material otherwise shows that intoxication at the time of the action is found more frequently in the case of first offenders than in the case of recidivists.

Particularly thorough follow-up studies of convicted persons with a view to throwing light upon actual recidivism have been conducted by the *Gluecks* in America, *vide* Five Hundred Criminal Careers, New York 1939, pp. 256 *et seq.* (summary of crimi-

nal factors of importance to recidivism), Five Hundred Delinquent Women, New York 1934, pp. 233 *et seq.*, One Thousand Juvenile Delinquents, Cambridge, United States of America, 1939, pp. 149 *et seq.* In the last-mentioned investigation of the conduct of quite young offenders during a five-year post-treatment period the rate of recidivism proved particularly high (71 per cent. and, if minor offences as well as serious offences not known to the police are included, 88 per cent.); *vide,* also, *Glueck,* After-Conduct, London 1945, pp. 20 *et seq.*, where the results of the previous investigations are summed up.

Given the scope of the concept of recidivism, typical personality traits in recidivists, as opposed to non-recidivists, are hardly capable of demonstration. The demonstration of such traits would at least require a division of the group according to age, nature of the offence, number of recidivisms, etc.

It is thus quaint that *Hooton,* The American Criminal, Cambridge, United States of America, 1939, pp. 143 *et seq.*, 275, states the following peculiarities of the "recidivists" as statistically ascertained: they are somewhat younger, shorter, more narrow-chested, with longer heads, more narrow foreheads, relatively longer and more narrow faces, shorter noses, more narrow jaws . . . they have also a larger proportion of dark eyes and dark hair than first offenders.

Acute and Chronic Criminals.

Recognising that repeated conviction is not, as a matter of course, an appropriate distinguishing mark of a relevant distinction between offenders, a classification has been made where non-recidivists are grouped with offenders who have been convicted several times, it is true, but at such long intervals and (or) for such different offences that there *cannot be said to be any connection in their criminality,* as distinguished from the "chronic criminals" with a multiplicity of convictions with no long law-abiding intervals. There is no question of any clear-cut line of demarcation, and various authors cite different distinguishing marks

when determining what shall be included in chronic criminality. Very often a definite number of previous convictions is required and a certain short term of years for the law-abiding periods, such as three to five years, *vide Karl O. Christiansen,* Kriminelle Levnedsløb (Criminal Careers) NTfS 1942, pp. 25 *et seq.,* who assumes that a law-abiding period of five years "in most careers ... will give an unmistakable impression of acute criminality".

From the point of view of terminology the designations of *acute-chronic* criminality are less satisfactory. The chronic criminal may very well cease to be criminal and, if so, his criminality is anything but "chronic". The acute criminal may have been guilty of offences having ranged over a long period (permanent crimes, persistent crimes) and where the criminality includes several convictions at longer intervals, it would be more appropriate to talk of *intermittent* or *periodic* than of acute criminality. In general, one should perhaps replace these terms by others, such as periodic, temporary or isolated criminality, as opposed to long-standing, persistent, remittent criminality.

The distinction between acute and chronic criminality has in Danish criminology been stressed in particular by *Karl O. Christiansen* in NTfS 1942, pp. 21 *et seq., cf. ibid.* 1943, pp. 41 *et seq.* The distinction is here applied to a group of 126 recidivists. Among the persons registered by the author as chronic criminals comparatively many proved to be previous child-welfare charges, their prospective recidivism was greater than among the acute criminals, very many of them were young at their first offence, slightly less than one-half were mental defectives as compared with only about one-ninth of the acute criminals. There were also significant differences in school and economic conditions in the two groups.

This investigation has been continued by *Stürup* and *Christiansen* in their unprinted work of 1946 on 335 State prisoners. A distinction is here made between 1) first offenders: prisoners in respect of whom no previous criminality (prior to the last con-

viction) has been ascertained; 2) acute criminals: recidivists with one or several law-abiding periods of at least three to five years; 3) chronic criminals: offenders recidivating at relatively shorter intervals. Of the material about one-fourth were first offenders, about one-fourth acute criminals and about one-half chronic criminals. There was a larger proportion of chronic criminals among the polycriminals, the trust breakers and the large-scale thieves (in the order stated).

Mild and Grave Criminals.

In his investigation of the careers of criminal twins *Friedrich Stumpfl*[1]) has made a distinction between mild and grave criminals. Among the latter are classed those who "have been sentenced at least twice to several months' imprisonment and who by their conduct of life have shown that antisocial behaviour with them is an habitual thing, a permanent state". The mild criminals are characterised (pp. 132 *et seq.*) as offenders who have been sentenced to at least three month's imprisonment with no further convictions for a period of at least 15 years. Characteristic of this group is, Stumpfl holds, that their behaviour is not in conformity with their character, but springs from a special taint giving rise to an inner conflict of personality. Their criminality is, therefore, also designated as *criminality of conflict.*

With other authors the distinction of mild and grave criminality is often related to the number of commitments and the rate of recidivism with no inclusion of characterological or psychological elements, thus with no direct connection with the distinction between criminality of conflict or of opportunity and habitual criminality[2]).

From the point of view of terminology and systematology, however, it seems objectionable to base the distinction between

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[1]) Die Ursprünge des Verbrechens, Leipzig 1936, pp. 93 *et seq.*

[2]) Thus *Stürup* and *Christiansen,* 335 Statsfængselsfanger, 1946 (unprinted), who determine the degree of gravity of the criminality by the frequency of imprisonments *(infra,* p. 404).

mild and grave criminality, in whole or in part, on the number of commitments, their frequency and their total duration. If the distinction is to have any *independent* value together with other classifications, determined from the points of view of etiology, psychology, penal policy, etc., it must refer to an evaluation of the gravity and dangerousness of the criminality, which is most obvious, too, according to the general meaning of the terms employed. Thus it is confusing if a person with no previous criminal record commits a series of murders of robbery or lust murders, and is then characterised as a "mild criminal", while the oft-convicted, but harmless beggar or loafer or exhibitionist is classed among the "grave criminals". It is true that there are no fixed, objective criteria for grave criminality, evaluated by its social harmfulness or dangerousness. On the other hand, however, nothing is gained by a classification employing "fixed" but irrelevant criteria.

If a distinction is to be maintained at all between mild and grave criminals, based on the indictable offences committed, it would probably be more advantageous to relate it to *the nature* of the criminality combined with the nature and the degree of the penalty. A distinction based on the abstract penal scope which applies to the offences concerned, however, is hardly practicable, the penal scope often being so wide as to afford no real guidance in the evaluation of the gravity of the concrete offences.

An attempt to establish a definite scale of degrees of dangerousness or gravity in regard to the different types of crime, based on evaluations originating with a large number of persons with expert criminalistic knowledge or interest has been made in the United States by *John Henderson Gorsuch, vide* Journal of Criminal Law and Criminology, 1938, pp. 243 *et seq.* As might be expected, homicide is at the top of this scale, followed by rape, burglary and robbery, embezzlement and fraud, bodily assault, forgery, and a bit further down by simple larceny and a number of other offences.

Types determined according to their Criminal Careers.

Attempts at a somewhat deeper characterisation than that of the classifications referred to above on the basis of the nature and course of the criminality but, like the latter, based on the penalties imposed have been made in recent years, in particular in German criminology. The *"general trend"* of the criminality of the individual offender is ascertained on the basis of the criminal records, a certain number of offences, say, three, of the same nature being taken to mark the existence of such a trend *("predominating criminality")*. To the various general trends correspond a number of criminal types *(Betätigungstypen)* among the offenders. Viewed from a chronological angle the careers suggest, further, the establishment of different development types. A distinction is here made between *"pure types"* who have generally committed only one particular type of crime, such as theft, and *"mixed types"* or *"polycriminal types"* (who have committed no less than four different types of offences); further, *"parallel types"* who from the beginning have continuously indulged in two or more types of crime side by side, and *"development types"* or *"changing types"* (Wandlungs-typen) who gradually change over from one type of crime to another. A number of investigations exist which are particularly concerned with finding characteristic career types with definite criminal forms as starting-point. So far, such investigations have not resulted in the establishment of definite regularities. The formerly widespread view that some types of offence, more particularly crimes against property and sexual crimes, should show a clear tendency to take a graver form in the case of persistent criminality has not been confirmed by these investigations.

A more characteristic feature than the asserted aggravation tendency in persistent recidivists is a tendency for *specialisation,* especially in the case of crimes against property (restriction to definite methods and objects). In offenders of low intelligence

this tendency of specialisation often degenerates into mere stereotyped forms of criminality.

For typological classification in the light of the criminal career, *vide* further *Wend,* Untersuchungen an Straflisten vielfach rückfälliger Verbrecher, Kriminalistische Abhandlungen XXIII, Leipzig 1936, *Heinz Möller,* Die Entwicklung und Lebensverhältnisse von 135 Gewohnheitsverbrechern, Kriminalistische Abhandlungen XXXVIII, Leipzig 1939; *Georg Schwab* in MfK 1941, pp. 213 *et seq.*

On the application of a similar typology in Danish criminology, reference is made to the treatises referred to above by *Karl O. Christiansen* in NTfS 1942 and 1943.

In considering criminal careers attention has been directed, in particular, towards the length of the period for which the individual has been interned. For the purposes of the criminological evaluations and comparative investigations, special systems of calculation have been developed for this period (the term of punishment or *"the period of internment"*) viewed in relation to the criminal career.

Vide Hans W. Gruhle in MfK 1911/12, p. 25, *John Henderson Gorsuch,* A Scale of Seriousness of Crimes, Journal of Criminal Law and Criminology, 1938, pp. 243 *et seq., Karl O. Christiansen* in NTfS 1942, pp. 11, 14 *et seq.* In the last mentioned treatise the author explains his concept of *"frequency of internment"*. By "internment" in this connection is understood a "sanctioning, effective segregation from the surrounding world, in particular imprisonment, placing in reformatory or juvenile homes as well as homes for inebriates". The frequency of internment (IF) is determined as the ratio between the period of internment (IP) and "the criminal period" (CP). By the latter term is understood the period from the first date of conviction (or date of withdrawal of charge subject to public care) to the last conviction. The period of internment designates the total period of internment. In computing the frequency of internment one multiplies by 100 in order to avoid fractional numbers. In this way the following formula is obtained:

$$IF = \frac{IP \times 100}{CP}$$

According to this method of calculation the frequency of internment will always be indicated as an integer between 0 and 100.

70.
CLASSIFICATION WITH REFERENCE TO TREATMENT

All classifications of criminals stressing an essential factor in their criminality serve purposes of penal policy in the last instance. Thus, the peculiar feature of the classifications to be discussed now is not that they give rise to different forms of treatment in regard to the respective groups of offenders, but that they *have the possibilities of treatment directly in view.* Classified with a direct view to these possibilities, that is to say by their amenability to one or the other of the sanctions coming into consideration, the offenders constitute a number of different *"penal-policy types".*

As mentioned above on page 385, the penal-policy classification is particularly associated with the name of *von Liszt* and with the programme of the Internationale Kriminalistvereinigung of 1897. We met here with a classification the determining criterion of which was a need or a possibility of reformation in connection with the punitive treatment. On the one hand we had the *occasional offender* (the momentary offender), who was in no need of a reformative, individual-preventive punitive treatment, on the other hand the *incorrigible habitual offenders* (permanent offenders), who were not amenable to reformation by punitive measures, but had to be subjected to other forms of treatment aiming at a permanent neutralisation, and, finally, between these groups *the offenders amenable to punitive measures,* who were capable of re-socialisation through protracted individual-preventive treatment.

In its general principles this tripartition is still of interest; since its development, however, half a century has passed, and we

are now faced with criminal laws which have established a wider differentiation of offenders and sanctions than that included in the programme of the original reform movement; and in other respects, too, a development has taken place involving the necessity of basing a review of the penal-policy types on a more recent systematology.

Now a principal distinction should be made between offenders who are amenable to ordinary punishment and offenders of a type which indicates a special treatment. The following exposition has reference to the latter group only.

Indications of Special Treatment.

Compared with earlier Danish criminal legislation as well as with foreign legislation, the Danish Criminal Law of April 15 1930 marks a great development towards the adequate special treatment of different categories of offenders. This development is due in particular to *Carl Torp* and *August Goll,* Torp more particularly with reference to the theoretical foundation and legal formulation of the special treatment, Goll as particularly regards the practical-criminological application of the classification, as it appears from the *Regulation of 7. December 1932 concerning the special treatment of certain offenders* drawn up by Goll in his capacity of Attorney-General.

1. *The Young Offender.*

It is generally agreed that the young offender should be exempted whenever possible from general punitive measures. Even where, according to current opinion, general-preventive considerations are assumed to justify the application of ordinary, unconditional imprisonment even in the case of a young offender, and even where this is due to the fact that he has committed particularly serious crimes, the law makes the allowance for his young age by restricting the duration of the penalty, *cf.* sect. 84

of the Criminal Law on the authority to reduce the penalty if the perpetrator, at the time of committing his offence, had not attained the age of 18 years, and the application of the full penalty of the law may be considered unnecessary or harmful, having regard to his young age. Under the Criminal Law, the penalty in respect of such persons may in no case exceed imprisonment for eight years.

Special forms of treatment of young persons include, in particular, *withdrawal of charge* subject to *public care or supervision, suspended execution of sentence* or *juvenile prison.*

Under sect. 30 of the Criminal Law *the charge may be withdrawn* if the young person committed all of the acts prior to completing his 18th year, in which case it may be withdrawn irrespective of the severity of the penalty deserved. As an exception, the charge may be withdrawn under sect. 723 of the Administration of Justice Act even where the said age limit is exceeded; likewise, this may be done under sect. 150 of the Public Assistance Act (Notification No. 495, dated August 31 1946) relating to young persons placed in reformatories or discharged subject to supervision. The withdrawal of the charge is generally combined with care by the child welfare authorities. Under the Regulation by the Attorney-General the general view is that no charge should be made where educational care or special care in respect of physically or mentally disabled persons or supervision "is deemed adequate". As long as there is no experience to the contrary, the quite young offender must be considered covered by this view in the vast majority of cases. The public care may be extended to the completed 21st year, *cf.* sections 167 and 168 of the Public Assistance Act.

Suspended execution of sentence under sect. 56 of the Criminal Law will generally not be indicated for young offenders under 18 years of age, in view of the provisions for withdrawal of the charge and for public care referred to above, but is applied, in particular, in the case of young persons over 18 years of age. The

emphasis is being shifted from the preference implied by the postponement of punishment to the positive treatment of the offender implied by the regulation of conditions through supervision, corrective measures, change of environment, etc. ("criminal welfare out of prison"). As regards the particular conditions and rules governing suspended execution of sentence, reference may be made to the criminal law.

As a general type of offender likely to be amenable to suspended execution of sentence should be mentioned the young first offender who has committed petty crimes, more particularly petty larceny, and who, according to the investigation made (sect. 56 of the Criminal Law), has a comparatively favourable prognosis according to which he is likely to be amenable to reformation without the application of more radical measures (juvenile prison or ordinary imprisonment).

Commitment to *juvenile prison,* which may be imposed under sections 41—43 of the Criminal Law if all of the acts covered by the charge have been committed prior to the completed 21st year, is according to the law a "penalty" that is applied where the offence "must be considered a manifestation of criminal tendencies or of being given to idleness or to associate with bad companions"", and "permanent educatory and training measures are found to be adequate". His offence must be one punishable by imprisonment, so that he cannot be committed to a juvenile prison for mere petty offences. On the other hand, commitment to a juvenile prison will not be applied where the offence is so grave that the penalty is considerably higher than imprisonment for three to four years (being the maximum for commitment to a juvenile prison).

The words quoted from the Criminal Law show that one has had in mind young persons with a more deep-rooted criminality, and this view is further stressed in the Recommendation of the Criminal Law Commission of 1923, where it is stated that the juvenile prison is "intended for offenders who, though

young, have advanced so far in a criminal career as to have to be characterised as budding professional and habitual criminals". This characterisation, however, is probably too pessimistic. On the other hand, it will not do, as has been done, to characterise juvenile prisoners simply as "smart boys". The Regulation of 1932 by the Attorney-General gives the following characterisation of the type: "Commitment to juvenile prison should be applied in particular if the offence must be supposed to be a manifestation either of innate qualities or of such adverse external conditions which by their duration or intensity have been able to influence the young person in an anti-social direction". Most informative, however, is the characterisation recently given by *Aage Hansen,* prison inspector, in the light of experience of the first 10 years of the juvenile prison:

"*The type* of the juvenile prisoners is the offender of weak character and no backbone who has not really learnt anything, has passed from one job to the other, generally rather harmless, but weak and with no feeling of responsibility"[1]).

It must be recognised, however, that the juvenile prison presents a *multiplicity of types* whom it would be desirable to segregate in different types of juvenile prisons. There are, for example, some psychopaths and mentally retarded persons who should perhaps be separated and, in particular, there is a group of more hardened youngsters who have formerly been placed in reformatories with negative result and who now adversely influence the less hardened and themselves leave the juvenile prison with a too high frequency of recidivism. For the latter a juvenile prison taking due account of their peculiar make-up would be a great step forward, wheras it would be a decided reaction to transfer them to ordinary imprisonment.

Vide, for the experience of the so far only Danish juvenile prison, Søbysøgaard (near Odense), an instructive account by

[1]) NTfS 1947, p. 10.

Aage Hansen, prison inspector, in NTfS 1947, pp. 1 *et seq.*—The juvenile prison accomodates 150 prisoners. A total of 564 have been received during the first 10 years. Their age at commitment was generally 18 and 19 years. The offences committed were nearly all thefts. Three-fourths of the prisoners had previously been charged or convicted. The vast majority came from simple working-homes, generally marked by inner defects or defective family conditions. The average duration of the term of imprisonment was longer than is often assumed, namely between two and three years.—The rate of recidivism covering the first five years is rather high, *viz.* about 40 per cent., but the rate should be viewed in the light of the particularly high rate of recidivism of the prisoners previously convicted and, more especially, of those formerly placed in homes for the young, *vide,* further, *op. cit.,* pp. 16 *et seq.*

2. *Abnormal Offenders.*

As for the most important forms of abnormality in connection with crime, reference may be made to the exposition above on pages 147 *et seq.* Only the question of a classification of the abnormal offenders in relation to the legal norm system will be discussed here.

Responsible and Irresponsible Offenders.

According to common penal conception a principal distinction is made between "responsible" and "irresponsible" offenders. Not every psychically abnormal criminal is considered irresponsible, but only certain more narrow groups of the psychically abnormal who in current opinion should go unpunished. The group of irresponsible offenders within the meaning of the Criminal Law cannot be defined by purely psychiatric criteria. Its delimitation is historically associated with the doctrine of the freedom of the will. Only those who were supposed to have acted without a free will were considered irresponsible in the classical criminal law. If in the Danish Criminal Law sect. 16 the term irresponsible is preserved as a distinguishing mark of

certain offenders, with no intention of associating it with the old ideas of the freedom and the non-freedom of the will, the term has no precise positive meaning, but aims primarily at leaving it to the courts how to act on the medical diagnosis; not that the latter can be dispensed with or should be set aside, but so that it may be supplemented by a legal-social judgment as to whether it is warrantable to exempt from punishment the person characterised as abnormal by the psychiatrists. Only persons who at the time of the action suffered from "insanity or conditions being recognised as equivalent" or who are high-grade feebleminded may be declared irresponsible under sect. 16 of the Criminal Law, and the medical judgment is thus binding inasmuch as it can hardly be imagined that the courts would declare a person irresponsible, except where insanity, etc., had been ascertained by a medical certificate. Conversely, however, a person may be held to be responsible despite the medical ascertainment of a condition covered by sect. 16. Practically this is of importance only in certain borderline cases where, despite his mental disease, a person has been able to lead a more or less normal social life with its resulting rights and privileges. The more pronouncedly insane and all the high-grade feebleminded will in any case be considered irresponsible within the meaning of the Criminal Law.

Among the irresponsible offenders are sometimes classed also the persons referred to in sect. 17 of the Criminal Law with more lasting psychic anomalies (low-grade feebleminded, psychopaths, etc.), provided they are not considered susceptible of influence through punishment; in this connection, however, the law does not employ the term irresponsible, and for several reasons it will be expedient to confine this term to the insane and pronouncedly feebleminded persons referred to in sect. 16 (as well as the cases referred to in sect. 18: intoxicated offenders having "acted without consciousness").

Amenability to Punishment.

While this distinction between responsible and irresponsible offenders theoretically points back to a metaphysical doctrine of responsibility, from which it has practically separated itself, the Criminal Law, however, presents other distinctions relating to the psychically abnormal offenders that point towards more rational criteria, placing the direct emphasis on what forms of treatment are most adequate in relation to the peculiar psyche of the individuals concerned.

In this connection mention should primarily be made of the distinction made in sect. 17 of the Criminal Law between the abnormal persons who are *amenable to punishment* and those who are *not.*

This distinction covers, in particular, *psychopathic personalities,* but also sexually abnormal, low-grade feebleminded, chronic alcoholists, etc., *cf.* the wording of sect. 17, subsect. 1:

"If at the time of committing the punishable act the more permanent condition of the perpetrator was one of defective development, impairment or disturbance of the mental faculties, including sexual abnormality, which, however, is not of the nature indicated in sect. 16 (insanity, high-grade feebleminded-ness), the court shall decide, on basis of a medical certificate and all other available evidence, whether he may be considered amenable to punishment."

The law does not define what is to be understood by the vague term *amenability to punishment.* One interpretation, however, is provided by sect. 17, subsect. 2, according to which a punishment shall be discontinued if it appears that it "will be of no avail or will involve the danger of a serious aggravation of the condition of the convicted person". As a general rule a person may be said to be amenable to punishment if there is reason to believe—or at least to hope—that he will be capable of re-socialisation through a penalty of a certain length of time. The judgment of this probability will in many cases, in particular in the

case of first offenders, be subject to considerable uncertainty; a tentative application of punishment may, therefore, be instituted until the criminal career has developed in such a way as to make a diagnosis of psychopathy and unamenability to punishment safer. In deciding each particular case one cannot ignore, however, that persons who have committed certain crimes are liable to be a menace when discharged at a definite time. Where the already existing criminality indicates a special risk in this respect, especially a risk of homicide, bodily assault, sexual crimes and similar serious offences, the practical tendency will be to make a decision affording the maximum safety to the community and, where the determinate penalty would not exceed a certain length of time, to assume unamenability to punishment involving an indeterminate period of internment.

On the other hand, there are cases where the gravity of the crime committed, such as an outrageous murder, excites the need for an explicitly punitive reaction which owing to its implied long duration does not permit an early discharge as would the internment of the perpetrator as a psychopath, low-grade feebleminded, etc., who is unamenable to punishment. In such cases there is a tendency to assume amenability to punishment despite the presence of psychic anomalies which, in the case of less serious offences, would have made the courts assume unamenability to punishment.

It will thus be seen that amenability to punishment is not decided according to a purely individual-preventive criterion with the sole emphasis on the possibility of re-socialisation through punishment. In certain cases this criterion cannot be applied at all, namely where the penalty imposed is one of death or life imprisonment. Here the punishment cannot possibly have any re-socialising purpose, and there can be no question of "amenability" to such punishments within the meaning of sect. 17. If, nevertheless, one is reluctant to apply such penalties, in particular capital punishment, to pronounced psychopaths and other persons covered

by sect. 17, it must be due to considerations other than those relating to their amenability to punishment. The punishment is here replaced by other measures due, in fact, to the same views that have motivated the rules of irresponsibility in relation to insane persons in sect. 16, thus from a feeling that the psychically abnormal individual is not *responsible* for his acts. In actual fact, this view is still largely mixed up with the individual-preventive view of amenability to punishment.

Even where the individual-preventive view is more exclusively applied, account must be taken of certain deviations from the general view of the amenability to punishment. For the latter should not be evaluated in isolation, but should be viewed in relation to the existence of forms of treatment other and *more appropriate* than punishment. As regards the morons, it is thus of decisive importance in decisions of unamenability to punishment that advanced welfare services for the feebleminded exist in this country, which may also adequately apply more or less radical measures to the criminal feebleminded. As formerly mentioned, there are as yet no such welfare services for the mentally retarded and the latter are now generally considered amenable to punishment. The development, if any, of adequate welfare services for the mentally retarded is liable to result in a change of the legal practice causing the mentally retarded to be considered largely unamenable to punishment.

The treatment of the persons characterised as amenable to punishment is governed by sect. 17 of the Criminal Law which provides detailed rules which cannot be dealt with here. It will only be mentioned that the imprisonment thus imposed for a definite time may either be served in an ordinary prison in a special institutional section, the so-called *psychopathic prison,* where account may be taken of the peculiar mentality of such persons. This form of internment plays no great part in practice, as does the so-called *detention of psychopaths* for psychopathic personalities who are unamenable to punishment.

Abnormal Offenders Grouped according to the Safety of the Public.

The fact that a criminal was declared irresponsible meant first of all in earlier periods of penology that he escaped punishment and moral denunciation. Given the extension of the death penalty and the severity of the whole penal system, this impunity must generally be regarded as a great advantage to the accused person, irrespective of the institutional treatment that might replace punishment, and it is intelligible that this view came to dominate public feeling. Despite the thorough humanisation of the penal system which has taken place in recent years, this conception still holds to some extent and has influenced also views on the special treatment of psychopaths and other offenders who are unamenable to punishment. Given the development of the system of preventive measures in the case of abnormal offenders, it is incorrect, however, to consider *the impunity* as the most important consequence of the individual being considered abnormal; no less essential is the *individualising interference* in the form of *preventive measures* to which the abnormal offender is subjected on account of the crime committed.

With reference to the nature of and the necessity for such measures the abnormal offenders who are exempted from punishment are divided here into three main groups, in connection with the provisions of sect. 70 of the Danish Criminal Law:

1) Persons who for purposes of public security are deemed to have to be *institutionalised* (lunatic asylum, asylum for the feeble-minded, asylum for inebriates, psychopathic institution etc.);

2) persons in respect of whom *measures less radical* than institutionalisation, such as the appointment of a supervisor, direction of residence in a definite place, abstinence order, are sufficient, though necessary, safety measures;

3) persons in respect of whom *no special measures* are needed. Few in number, they are practically speaking only persons who in a momentary alienation of the mind have committed offences of a less serious character.

3. *Persistent Recidivists of a Less Dangerous Type ("Habitual Offenders").*

Among the habitual offenders already referred to many will be so distinctly mental deviates that they have to be subjected to special treatment as psychopathic personalities, feebleminded persons, etc. In this classification they thus come under the previous group.

The material that remains after the separation of the distinct mental deviates constitutes no homogeneous group, but must be divided at least into two main groups from the point of view of penal policy: *the less and the more dangerous* or the passive and the active. The distinction has gradual transitions, but all the same it is possible to mention certain types as belonging to each of the two groups. Under positive Danish law they may be characterised as *the clientèle of the work-house and the preventive detention centre respectively.* Common to both is their insusceptibility to the influence of a limited term of punishment and their need of more prolonged imprisonment, adapted to their peculiarities, as far as the dangerous group is concerned, with no absolute maximum, *vide* further the provision of Chapter 8 of the Criminal Law.

The less dangerous, passive group, which belongs in particular, to the workhouse, is described in the Regulation of 1932 by the Attorney-General as follows:

"It includes the weak, often psychically defective persons who, being given to idleness and disorderly habits, constantly commit crimes, more particularly minor crimes against property, or are guilty of begging or loafing without being really dangerous to society. Under the same group may, to some extent, be subsumed incorrigible habitual drunkards who commit crimes under the influence of alcoholic beverages, and prostitutes being guilty of repeated violations of sections 199 (failure to seek lawful occupation) or 256 (spreading of venereal disease) of the Criminal Law. To these must, finally, be added the comparatively undangerous

sexual offenders, more particular exhibitionists and others whose offences do not exceed the mere violations of public decency as well as a no small proportion of the persons convicted for less serious obscene offences".

4. Persistent Recidivists of a Dangerous Type (Dangerous Professional Criminals).

The types of criminal who may be committed to preventive detention under sect. 65 of the Criminal Law must under the law be "professional or habitual criminals" of such nature that the *"regard to public security"* requires this prolonged detention (from 4 to 20 years, sometimes for life).

The Regulation of 1932 of the Attorney-General characterises the group as follows: "It includes the positively dangerous professional or habitual criminals who by numerous burglaries, pick-pocketing or other kinds of theft or by blackmails, robberies or extensive receiving activities have shown that they have made crime their means of livelihood and who by their whole way of living and the number of punishments which have so far been applied to them in vain must be expected to continue their criminal ways under forms against which the regard to public security necessitates the application of very severe measures, and to an extent which is generally out of all proportion to the particular crime or crimes of which they can be convicted". In conformity with the grounds of law, dangerous sexual offenders, aggressors and procurers are also mentioned, but in practice preventive detention has been applied as an exception only to criminals of this type. The clientele proper of the institute are the *dangerous professional criminals.* As far as the dangerous sexual offenders are concerned, a different form of treatment has developed where continuous recidivism chiefly is remedied through detention in a psychopathic institution with discharge after voluntary castration.

The importance of segregating the *professional criminals* for

separate, preventive treatment was strongly stressed by *von Liszt*[1]), who pointed out that professional criminality is not identical with habitual, anti-social, etc., criminality, but is a subdivision, characterised by the professional aspect.

von Liszt gives a closer definition of the professional crime. The concept is taken in a sociological sense and exists "wenn die wiederholte Begehung strafbarer Handlungen nach der Absicht des Täters die ausschliessliche oder doch überwiegende Erwerbsquelle bilden soll". — At the time of the development of the Code pénal in the beginning of the 19th century, the professional crime, in its characteristic form, was exercised by the *gangs of robbers* ravaging in various parts of the country. Later, according to von Liszt, a distinction might be made between the following four groups of professional criminals: 1) beggars, tramps, etc., 2) professional criminals applying violence (robbers), 3) thieves and defrauders with professionally developed techniques and international activities, 4) a multifaceted group who in an unlawful way exploits those in a weaker position, including usurers, blackmailers, procurers and similar dregs, but also stock-exchange swindlers, financial swindlers and other exploiters of high finance.

In more recent American criminal sociology much attention has been given to the professional criminals. It is pointed out how they accumulate a fund of criminal techniques, criminal attitudes and a criminal philosophy of life the climax of which is a professional criminal career with the same sociological basic attributes as other professions, *vide Reckless,* Criminal Behavior, New York 1940, p. 3, *Sutherland,* Principles of Criminology, New York 1947, pp. 213 *et seq.*

If the community applies such radical measures to the professional criminals as long-standing, indeterminate preventive detention, it should be insisted that this form of internment be applied only to the dangerous proportion of the professional criminals. The statements quoted above from the Regulation of 1932 by the Attorney-General contain a concluding remark opening up the

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[1]) In a lecture on Das erwerbsmässige Verbrechen in the year 1900 (Strafrechtliche Aufsätze und Vorträge, II, Berlin 1905, pp. 308 *et seq.).*

way for an alarmingly wide practice in regard to the condition of dangerousness. And according to the evidence available of the actual application of preventive detention in Denmark subsequent to the coming into force of the new Criminal Law, it seems as if several persons, who by the nature of their criminality ought sooner to have been committed to the workhouse, where indeed some had already resided, have been committed to preventive detention[1]). In particular where the offence giving rise to the commitment (or to repeated commitments of a minimum duration of eight years) is of a trivial nature, such as the theft of a bicycle or theft from a lumber-room, the prolonged indeterminate confinement, which in practice cannot be separated from the serving of a term of punishment, though formally it has the character only of a non-punitive detention, seems disproportionately hard; and the inhumanity of this treatment is scarcely warrantable if the social values threatened are of no considerable importance. Apart from a few individual cases that may be criticised, it should be recognised, however, that the courts have been very reluctant to apply preventive detention.

Vide, further, *Borgsmidt-Hansen*'s above-mentioned account according to which the annual commitments to preventive detention averaged 5 to 6 during the years 1937—42.

In general, the total number of professional and, more particularly, of dangerous criminals must be supposed to be rather small. The hope of effectively doing away with crime by neutralising this "kernel" of criminals will hardly, even through the comprehensive practice of neutralisation, be satisfied.

A calculation of the number of professional criminals is found in *Robert Heindl,* Der Berufsverbrecher, 7. Aufl., Berlin 1929, pp. 190 *et seq.* The number of Berufsverbrecher is here estimated at 8.500 out of a population above the age of criminal responsibility of 46 millions. No safe conclusions, however, can be drawn as to

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1) *Vide* critical comments against this practice in Borgsmidt-Hansen's account of the application of preventive detention in NTfS 1943, pp. 217 *et seq.*

the conditions in Denmark and, as a source of information, this work should not be accepted without criticism.

This question of the professional criminals should not be mixed up with the question of the profession (the lawful occupation) as a factor in crime. *Tarde,* in particular, has advanced an extreme theory of correlation between profession and crime and suggested a division into groups according to the choice of occupation, cf. *Havelock Ellis,* The Criminal, London 1895, pp. 223 *et seq.* The question cannot be dealt with in greater detail here.

71.
PROGNOSES BASED ON AN INDEPENDENT JUDGMENT

As long as the penal reaction was primarily determined by the nature and the degree of the crime committed, the question of the offender's possibilities of social adjustment had no direct penal importance; nor did it particularly excite the interest of criminal science. According to recent developments in regard to the individualisation and foresight of the reactions to crime, on the other hand, the question of prognosis has come to the fore. It is of direct practical importance in the charge as well as in court decisions and when the question of discharge is to be decided. In the latter respect, in particular with reference to reprieves, the question of the prisoner's prospects of recidivism or of a law-abiding existence was also of course of considerable interest prior to the modern development of the criminal law, but it has gained quite a different and more urgent importance since indeterminate sanctions of a duration directly dependent on the prognosis have been increasingly applied.

The judgments which have hitherto been made of the risk of recidivism (dangerousness, possibility of reformation, effectiveness of the punishment served, etc.) among offenders, more particular prisoners, have generally been intuitive or subjective in character. A discretionary prognosis has been made on the basis

of a general impression derived both from the observations of practical prison officers of the prisoner in the penal institution, and possibly also from a psychiatric examination. More recent follow-up investigations have shown, however, that such prognoses have a very high percentage of error, which indeed was to be expected.

In Denmark prognoses of this type have been applied for many years within the prison administration. At their discharge from the penal institution the prisoners have been subsumed under a particular class of judgment. The division, which dates back to 1891, has reference to the moral influence which the punishment must be supposed to have had on the prisoners. The classes of judgment are the following:

"Class 1: Prisoners who were penitent already at commitment to prison and on whom the punishment must be supposed to have had a fortifying influence.
Class 2: Prisoners who are considered much improved by the punishment.
Class 3: Favourably influenced, but still doubtful.
Class 4: Transitorily influenced.
Class 5: Prisoners having shown indifference to the punishment and, therefore, are considered unaffected.
Class 6: Prisoners who leave the penal institution distinctly stupefied or with a spirit of resistance.
Class 7: Prisoners whom it has been impossible to judge owing to mental defects".

The distribution of the prisoners among these classes of judgment has not been included in the Criminal Statistics since the coming into force of the present Criminal Law. It appears from earlier statistics that the vast majority of the prisoners have been subsumed under the classes 4 and 5, in particular 5, while a small percentage fall outside these classes.

There is no denying that the whole basis of the division seems obsolete. By circular letter of July 1947 the Prison Directorate has, indeed, decided that this system of classification shall be dropped in future and that, until a policy of judgment may be laid down, judgments of prisoners may be given as an independent statement about the prisoner.

There exist several proofs of the problematic value of the discretionary prognoses of the type generally used in practice, *vide, e. g., Schiedt,* Ein Beitrag zum Problem der Rückfallsprognose. Dissertation, München 1936. It is stated here, *inter alia,* that the judgment in respect of one-fourth of 500 prisoners prognosticated by the medical officers of the penal institutions in the year 1931 had been fallacious, in spite of the fact that in one-third of all of the cases the prognosis was "doubtful" ("fraglich"), so that a definite judgment had thus been given only in "safe" cases.

A general prediction classification based on judgments divides prisoners into "improvable" ("besserungsfähige"), "doubtful whether improvable" ("fraglich besserungsfähige") and "unimprovable" ("unverbesserliche"), *vide, e.g.,* Viernstein, Mitteilungen der Kriminalbiologischen Gesellschaft, Bd. 1, p. 35, who makes the following prognoses in respect of a non-selected group of prisoners from the Straubing prison: besserungsfähig 61.3 per cent., fraglich besserungsfähig 12.9 per cent., unverbesserlich 25.6 per cent.; for persistent recidivists (Gewohnheitsverbrecher) the corresponding rates are: 8 per cent., 22 per cent. and 70 per cent. (quoted from *Karl Schnell,* Krim. Abh. XXII, Leipzig 1935, pp. 12 *et seq.*). Deviating results by other investigators employing similar criteria, *vide, e. g.,* statements by *Fickert,* Krim. Abh. XXXVII, Leipzig 1938, pp. 93 f., show the classification to be rather subjective in character.

Apart, also, from the sources of error inherent in the uncertainness of the judgment in the particular case, exception should be taken to a prediction classification employing "unimprovability" as a group designation. A prediction of the absoluteness implied by this designation can be made as a rare exception only, if at all; *vide von Rohden* in MfK 1933, pp. 74 *et seq. Healy and Bronner,* Delinquents and Criminals, 1926, p. 206, who after investigating empirically a vast number of prisoners arrive, at the conclusion "that no conditions, whether of mind, of body or life situations, preclude the possibility of checking the development of a criminal career".

72.
SYSTEMATICAL PROGNOSES

Research into the possibility of establishing a fixed, objective basis for prognoses has developed during the last few decennia in America, stimulated by the widespread use of the parole system and of indeterminate sentences. After various attempts to develop statistically supported methods of prognosis, a work appeared in 1928 by *Ernest W. Burgess,* which gave fresh impetus to this research. Many others followed Burgess, chief among them being *Sheldon Glueck* and *Eleanor T. Glueck.*

A survey of the American literature on prognosis is given by *Robert M. Allen,* A Review of Parole Prediction Literature, Journal of Criminal Law and Criminology, XXXII, 1942, pp. 548 *et seq.,* to which reference is made.

In 1927 in Illinois Burgess arranged for an analysis of the working of the parole system in 1000 cases, in order to discover which of the paroled persons had observed, and which had failed to observe the conditions. A definite number of factors which might be of importance to the criminality, 21 in all, were listed and these factors, in turn, were divided into subgroups. In respect of each of these groups the rate of success among the investigated persons in whom this factor was present was ascertained and the individual factors were accordingly classified as favourable or unfavourable. Finally, the investigated persons were grouped according to the number of favourable factors found in each one. On this basis Burgess drew up a prediction table showing the probable percentage of success according as a smaller or larger number of favourable factors was present, this percentage being, for example, in the case of 2 to 3 favourable factors: 14; in the case of 4 to 5 favourable factors: 35; in the case of 12 to 13: 89 and in the case of 14 to 15: 97.

Vide, further, *E. W. Burgess,* Workings of the Indeterminate-Sentence Law and Parole Systems in Illinois (in *Bruce, Harno, Burgess and Landesco,* Parole and the Indeterminate Sentence, Illinois Board of Parole, Chicago 1928).

The most intensive as well as the most extensive investigations of prognosis, with a more highly refined methodology than Burgess's, come from the *Gluecks*. Their first work in this field appeared in the often mentioned work, Five Hundred Criminal Careers, New York, 1st ed., 1930. Here an account was given of the follow-up investigations of 510 ex-prisoners from the Massachusetts Reformatory. The authors had closely examined the conditions of these prisoners *prior to their commitment* to the reformatory, *during their stay* here, while *on parole* and during a *five-year period after* their final discharge. About 50 factors that might be of importance as criminal factors were pointed out, and the coefficient of correlation between each of these factors and the criminal or non-criminal behaviour in the post-parole period of the ex-prisoners was determined through statistical methods. The factors showing the highest correlation were separated and analysed further, being divided into subgroups which were then examined separately with reference to the percentage of failure associated with each subgroup. The *Gluecks* illustrate the method by the following example:

Working Behaviour

	Percentage of failure during the five-year period after the final discharge
Good	43
Fair	59
Bad	68

This table indicate that 43 per cent. of the offenders who were good workers prior to commitment to prison relapsed into criminality in the course of the five-year period mentioned, while the percentage of recidivism for the inferior workers was 59 and for the bad workers 68.

The remaining significant factors being analysed in a similar way, a number of percentages was arrived at according to which prognoses were estimated. If, in relation to all of the factors, an

offender belonged to the good category, he would obtain the lowest possible figure (most productive of success) by adding the figures he had scored in the case of each factor, while it would be the other way round if, in the case of all of the factors, he belonged to the lowest category: his chance of failure would throughout be the highest, if he were classified throughout with the highest rates. Such extreme cases, however, are less practical. The intermediate cases will be the general rule. The closer the individual case is to the minimum figure of the prediction table, the smaller the risk of relapse. By way of illustration is given the table drawn up by the Gluecks on the basis of six significant factors on the prospects of: law-abiding behaviour after the final discharge ("success"), less serious offences ("partial failure") and graver criminality ("total failure"):

	Success %	Partial Failure %	Total Failure %	Total %
244—295	75.0	20.0	5.0	100
296—345	34.6	11.5	53.9	100
346—395	26.2	19.1	54.7	100
396 and over	5.7	13.7	80.6	100

According to this table the fortunate ex-prisoner who has scored only 295 by adding the figures of each of the significant factors, should have a 75 per cent. chance of doing well after his final discharge, while the one who has reached 396 or more has only a 5 to 6 per cent. chance.

This prediction table has in view only factors of importance in the case of the conviction of first offenders. Additional factors should be taken into account at later stages of the career (in the question of parole and in the treatment of recidivists). This question cannot be discussed in greater detail here. It has been intended only to give an idea of the method.

The Gluecks have developed and improved their prediction methods in a large number of works. A brief and instructive account of their most recent methods is now to be found in their book published in the series English Studies in Criminal Science and entitled: After-Conduct of Discharged Offenders, London 1945, pp. 63—73.

The factors separated as significant according to the Glueck investigations referred to the prognosis at first conviction to a reformatory, to the gravity and frequency of previous criminality, to imprisonment for crimes prior to the crime which led to commitment to a reformatory, to experience of penal treatment prior to such commitment, to working conditions, to the meeting of family responsibilities, and to mental deviations. In prediction tables for the purposes of parole decisions the behaviour of the prisoner in the reformatory was added to these six factors. In later decisions concerning the continuation or the discontinuation of a commenced parole period the one really significant factor proved to be: the behaviour during the parole period. For the purposes of prognosis in the case of repeated commitments to a reformatory, five additional factors were added, all five relating to the conditions after the expiration of the parole period, namely: working habits, family relations, the meeting of family responsibilities, the type of home, the use of leisure time.

These are the factors which have turned out to be relevant for the group of male offenders committed to a reformatory. For other groups, such as female delinquents and quite young offenders, other factors appear significant, *vide,* Five Hundred Delinquent Women, New York 1934, pp. 251 *et seq.,* and One Thousand Juvenile Delinquents, Cambridge, United States of America, 1939, pp. 185 *et seq.,* thus with particular reference to the latter: the discipline exerted by the father, the discipline exerted by the mother, backwardness at school, conduct in school, age at first misbehaviour.

A particularly interesting feature of the prediction research, more especially as it has been developed through the Gluecks' work, is its emphasis on and analysis of all possible *criminal factors.* Thus, in the investigation of the 500 delinquent women, no less than 153 criminal factors have been pointed out. In the case of 22 per cent. of these factors, the women who had been influenced by the treatment in the reformatory differed from those

who had not been so influenced. It is these factors which must be of decisive importance for the *prognosis.* However, it does not follow that the remaining factors may not be of importance *for the genesis* of the criminality of the women concerned. The Gluecks rightly emphasise this distinction within the criminal factors:

"Some criminogenic factors are of such nature as to expend their energies completely by the time the offenders enter upon their adolescence, others extend their influence into the adolescent years, still others are potent beyond adolescence, and a few perpetuate their effects throughout the lives of offenders, some even into their offspring" (Five Hundred Delinquent Women, p. 270). It would thus seem that unfavourable home conditions during childhood are a factor of declining importance with the passage of years, while such factors as the upbringing may well be influential throughout life.

As for the application of the Gluecks' prediction method to a large group of burglars, *vide Michael Hakeem,* Journal of Criminal Law and Criminology XXXVI, 1945, pp. 87 *et seq.*

Several investigations have been conducted with a view to checking the more general significance of the factors cited by Burgess and the Gluecks, *vide,* with negative results in that respect, *John L. Gillin* in Journal of Criminal Law and Criminology XXXIV, 1943, pp. 236 *et seq.*

A peculiar prediction system has been tentatively practised by *Ferris F. Laune,* Predicting Criminality, Northwestern University, Evanston and Chicago 1936, who bases the prognosis on the opinions of the co-prisoners of the person concerned. The appraisal of the co-prisoners is broken down into the elements of which it is composed, by means of a "discussion method", the appraisers discussing why they consider his prospects good or bad. All the factors mentioned as relevant in the discussion are noted down. The author recognises, however, that for practical reasons the appraisal by co-prisoners must be replaced by a different form of judgment, resembling the appraisal system mentioned as much as possible, *vide* further the treatise referred to.

In *Europe,* American prediction research has particularly influenced German criminology, as it exists in a number of works by *Schiedt* (1936), *Meywerk* (1938—39), *Gerecke* (1939), *Schwaab* (1939), ***et alii.***

Vide account of these works in *Exner,* pp. 346 *et seq.* The latest German monograph on the subject is *Fritz Schwaab,* Die soziale Prognose bei rückfälligen Vermögensverbrechern, Kriminalistische Abhandlungen, XLIII, Leipzig 1939, with full literary references.

The system which has come to be used most here is the *"Schlechtpunktsystem"* originally developed by Schiedt, Ein Beitrag zum Problem der Rückfallsprognose, München 1936. On the basis of a follow-up study of the recidivism or the non-recidivism of 500 discharged prisoners Schiedt set up the following *15 points of prognostically unfavourable importance:*

1) Hereditary taint, 2) criminality of family members, 3) bad up-bringing, 4) bad conditions in school years, 5) discontinued vocational training, 6) irregular work, 7) criminality prior to the age of 18 years, 8) more than four previous convictions, 9) recidivism after a very short interval, 10) interlocal criminality, 11) psychopathy, 12) drunkenness, 13) bad behaviour in institution, 14) discharge prior to the age of 36 years, 15) bad social and family conditions after discharge.

The criminals investigated by Schiedt were now classified according to the number of unfavourable points, *vide* the below table:

Group	Number of Unfavourable Points	Number of Persons in each Group	Recidivists %	Non-Recidivists %
I	0	30	3.3	96.7
II	1—3	101	14.8	85.2
III	4—6	170	40.6	59.4
IV	7—9	118	68.6	31.4
V	10—11	50	94.0	6.0
VI	12—15	31	100.0	0.0

On the basis of these results Schiedt assumed that the prognosis *"good"* could be made out for persons with *less than four points,*

"bad" for persons with more than nine points, and doubtful for the remainder.

The value of this point system is controversial. It has been checked by various investigators working on different groups of criminals, in some but not in all of the cases with correct results, *vide,* further, *op. cit.* by Schwaab. Leading criminologists, however, have proclaimed its superiority to other prediction systems, among them *Meywerk,* MfK 1938, pp. 422 *et seq.,* 1939, pp. 287 *et seq.* Its weaknesses include that it is based on investigations of a small, heterogeneous group of prisoners, that it attaches the same importance to all points, that it permits of no graduation in the evaluation of individual points, and that the definiteness and precision with which the points may be evaluated have been achieved by the omission of relevant elements, less easy of evaluation, in particular in regard to the mental characteristics of the offenders.

An attempt to remedy these defects has been made by *Gerecke,* Zur Frage der Rückfallsprognose, MfK 1939, pp. 35 *et seq.* This author sets up nine points of prognosis of different point value (highest "Gemütsarmut"). The point value is multiplied by 1 to 4 according to the degree of pronounced character.

The American and German prediction research so far discussed is still so recent that it is too early to pass a definite judgment on its results. There can be no question of a direct transfer of any of the systems mentioned to Danish conditions to replace more independent discretionary prognoses. And even given a wider development and refinement of the systematic methods of prognosis they will not be likely to supersede but, at most, to support and guide an objective judgment, based on a total impression, not on a strict analysis, of the possibilities of re-socialisation of the individual offender.

These reservations, however, do not denote a failure to appreciate the great scientific interest attached to a systematic prognosis

research. No one knows what results may be achieved. What can be said of criminological research in general holds good for this field in particular: any possibility of replacing unverified assumptions and judgments by exact knowledge should be pursued to the utmost.

73.
CONCLUSION

This book has taken the reader far afield. Attempts at explaining criminal phenomena along many different roads have been discussed. Criminality has been considered in the light of biological and anthropological investigations of heredity, the spheres of psychiatry and psychology have been touched on, and brief sketches of a number of sociological and socio-psychological problems and observations have been given.

In its treatment of the multiplicity of subjects and approaches of criminology, this exposition has sought above all to give an objective account of how far one has got along the different roads of research into the determination of the nature and importance of crimogenic factors. The exposition attempts to be a kind of balanced survey of present knowledge — or lack of knowledge — in this field.

In all fields it has turned out that there is insufficient foundation in experience for saying that any definite group of endogenous or exogenous factors is of determining causal importance in crime in general or within essential spheres. In the face of the trends that have made themselves felt here and which have already been discussed, one may use the picture by which *Murray,* accurately depicts a number of conflicting psychological views within the doctrine of personality: the divergence of the constructions by these psychologists is due to their subjective attitude which in the study of the human being makes it possible to reach any result whatever; for man is like an ever-varying cloud and psychologists are

like people seeing faces in it. To each observer each part of the cloud has its special function. And in order to become the founder of a new school it is only necessary to see a face along another margin[1]).

In the treatment of the different subjects particular importance has been given to the illustration and the critical evaluation of *the methods* employed in the investigations. At the present stage of criminology it is still the questions of method which are of primary interest. Far too many of the best known investigations within criminal biology and criminal sociology can be refuted.

It has been necessary largely to refer to the works of other authors. This is a consequence of the very intention of the book which is to survey the results of the most important existing investigations in the field of crime. Besides, it is to be hoped that the many literary references will tempt the student to seek further data in the original works to which reference is made. Only by so doing, will he get into close touch with the work going on in the criminological workshops.

Another reason why literary references have had to play a larger part than is consistent with the best style is because the exposition must include more than a single branch of science. If an author who is a jurist ventures beyond the limits of the science of law, the reader may fairly demand that he at least verifies the sources of his knowledge.

In the preparation of this book, however, I have increasingly come to realise that "criminology" incorporates such wide and heterogeneous spheres of knowledge that no single individual can command or continue to command all of it. In this respect I have come to think like Professor *Thorsten Sellin*[2]). However, I still consider it warrantable, indeed necessary, that one or several individuals should try to co-ordinate, in a systematic exposition

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1) *Henry A. Murray,* Explorations in Personality, New York 1938 (1947), p. 10.

2) NTfS 1947, p. 145 *et seq.*

the efforts which have been made in widely different quarters to lay bare the criminal factors. The need for such an exposition is indisputable. As regards the University of Copenhagen, this need stands acknowledged since, from 1944 onwards, compulsory courses in criminology have been prescribed for all law students and since, from 1947 onwards, the subject has been included in the curriculum of the new study of psychology, without any Danish text-book on the subject having been available so far.

For the purposes of research, however, the need is for the establishment of *institutes of criminology* where collaboration between different experts (psychiatrists, psychologists, statisticians, lawyers, etc.) may be prepared and organised. In this connection reference may be made to the elaborate reports and discussions at the Northern European Conference of Criminalists in Stockholm in 1947.

There is every reason to believe that the necessary scientific forces will make themselves available in the cause of adequately [illegible]

[illegible]

form of research, with its deep-rooted problems and wide social importance, holds out much attraction right across the general division of faculties.

A book like this might give rise to some pessimism as to the practical value of criminological investigations. Doubt and uncertainty have, indeed, arisen over most points and it has been necessary to discard theories thought to be based on a safe empirical foundation, but which could not stand a closer test. Such pessimism,

To pessimists and sceptics it should be said, too, that though the criminology of today has not found, and probably never will find, the sesame to the mysteries of the criminal mechanism, let alone the prescription for a patent medicine to prevent future criminality, for the very reason that any one simple causal explanation and penal policy would be in little conformity with the complexity of interacting factors in the genesis and repression of crime in real life, the fact remains that criminological research has already commenced to render service by influencing general and professional opinion towards a more rational conception of problems associated with crime.

The Economic and Social Council of the United Nations has set up a Social Commission, which at the end of 1947 has submitted a preliminary report on the prevention of crime and the treatment of offenders. The investigations it recommends will be seen to correspond fully with the subjects dealt with in this exposition. The Commission is desirous of examining 1) whether anti-social tendencies are due to morbid hereditary factors, 2) how the child in the family group and in the school circle is exposed to influences shaping its attitude and conduct, 3) what conditions the community offers the young person who is leaving school and whether there is sufficient awareness of the responsibilities of the community not only to physical invalids but also to "social invalids", 4) the general social background of criminality (poverty, economic crises, alcoholism, etc.) and 5) the whole personality and career of the individual offender.

Proposals are made concerning the organisation of research into each of these questions.

The criminological studies of each particular country are a contribution, though a long-term one, towards a thorough examination and eventual solution of such problems, to which international importance is rightly ascribed.

ABBREVIATIONS

The works referred to in text and notes have been printed in Copenhagen if nothing else is indicated.

Festskrift for Helweg — Opuscula psychiatrico-neurologica Hjalmaro Helweg dedicata. Copenhagen 1946.

HdwK — Handwörterbuch der Kriminologie. Berlin und Leipzig. I 1933. II 1936.

JCC — Journal of Criminal Law and Criminology. Chicago.

Krim. Abh. — Kriminalistische Abhandlungen ausgegeben von Dr. Franz Exner, Leipzig.

MfK — Monatsschrift für Kriminalbiologie (Kriminalpsychologie) und Strafrechtsreform. München/Berlin.

M&M — Menneske og Miljø. ("Man and Environment", Periodical). Copenhagen.

NKÅ — De Nordiska Kriminalistföreningarnas Årsbok. (Yearbook of The Northern Associations of Criminalists). Stockholm.

NKT — Nordisk Kriminalteknisk Tidsskrift. (Nordic Journal of Police Science). Stockholm.

NTfK — Nordisk Tidsskrift for Kriminalvidenskab. (Scandinavian Journ. of Criminology). Copenhagen.

NTfS — Nordisk Tidsskrift for Strafferet. (Scandinavian Journal of Penal Law). Copenhagen.

SOU — Statens Offentliga Utredningar. (Public Commissions' Reports). Stockholm.

SvJT — Svensk Juristtidning. (Swedish Journal of Law). Stockholm.

TfR — Tidsskrift for Rettsvitenskap. (Journal af Science of Law). Oslo.

UfL — Ugeskrift for Læger (Weekly Publication of Medicine). Copenhagen.

UfR — Ugeskrift for Retsvæsen. (Weekly Publication of Jurisprudence). Copenhagen.

ZfR — Zeitschrift für die gesamte Strafrechtswissenschaft. Berlin.

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