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# POPULAR ATTITUDES TOWARD THE ADMINISTRATION OF CRIMINAL JUSTICE

T. EARL SULLENGER<sup>1</sup>

## I

We have only to read the discussions carried on in the newspapers and periodical literature, and even in certain works of fiction; to listen to the lectures of so-called and real eminent criminologists, and to other well-meaning persons whose utterances reveal their attitudes, to gain a glimpse of a cross section of popular attitudes toward administration of criminal justice.

Popular attitudes toward this form of social control are more numerous and divergent than in any other field at present. Rational thinking people are beginning to sit up and take notice. They accept the old axiom that "where there is so much smoke there must be some fire." As a result of the awakening, crime commissions and law enforcement associations have sprung up in no small numbers in the United States within the last few years. Some have been wholly private and voluntary. Some have been composed of officials, such as sheriffs and prosecuting attorneys. Others have been initiated by governors or mayors but without legislative authority.

Some have been formed by express legislative enactment. Some have been formed temporarily because aroused over some atrocious crime. Some have been prompted by the conviction that present crime conditions and law enforcement are intolerable. The movement has both encouraging and discouraging aspects. As we study these we find expressions of many different trends of popular attitudes. One conspicuous feature of these organizations is found in the number of men and women of notable achievement in both public and private life who are giving freely their time, means and effort to the advancement of this work. It shows a tendency toward a more conscientious study of conditions and attitudes, with a view of marshalling toward a more definite standardization of attitudes and improvement of conditions. A few of these organizations which have accomplished the most will be referred to in this article.

In the administration of criminal justice, there are many subtle forces at work of which we are but partially aware. Tradition, educa-

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tion, physical environment, race, class and professional solidarity, and economic, political and social influences of all kinds and degrees make up a complex environment in which men endeavor to reach certain results by means of legal machinery.

The ends are not always the same. Conflicts are strong and numerous. Opinions differ. But since this machinery is man-made and human, many reasons for dissatisfaction are found and expressed in forms of opinions and attitudes. Dean Roscoe Pound of the Harvard Law school says that "dissatisfaction with the administration of justice is as old as law. One of the Greek Seven Sages said that 'laws are like spiders' webs, wherein small flies are caught, while the great break through.' In the history of Anglo-American law, discontent has an ancient and unbroken pedigree from Anglo-Saxon times to the present."

Throughout the history of written law men have differed in opinions in regard to its administration. The tendency has been to swing from one extreme to the other. Justice has had different connotations for different people at different times. A complex and crowded society containing heterogeneous elements, groups and classes and interests has conflicting ideas of justice and its administration. In such societies the dissatisfaction is likely to become acute. The individual citizen looks only at single cases, and measures them by his individual sense of right and wrong. This criterion of measurement gives rise to diversified opinions. Since legal rules cannot exist until public opinion has become fixed and standardized, it cannot well change until public opinion has definitely changed. It follows that law is likely to lag somewhat behind public opinion whenever the latter is active and growing as it has been in the last decade. As this inevitable difference between the progress of law and public opinion has increased, popular opinions as to crime and administration of criminal justice have become more numerous and diversified.

Criminal law has stood still and, with only a few exceptions, criminal procedure remains what it was fifty years ago. The neglect of criminal law by the leaders of the bar bears fruit in a backward condition which is full of advantage to the law-breaker and to those who make their livelihood by representing him. Dean Pound points out the chief reasons for the ineffectiveness of the process as follows:

The multiplicity of protections enjoyed by the delinquent under our laws of procedure, the inefficiency of prosecuting officers, the influence of political "pulls" in diverting the course of justice, or in other words, the "spoils of politics." Chief Justice Taft has said on

many occasions that the administration of criminal justice in the United States is a disgrace to our civilization.

## II

Modern principles of criminal law, and methods of procedure are largely traceable to the eighteenth century humanitarian movement and to the philosophers who gave voice to the ethical renaissance, which had its philosophical basis on the social contract theory of Rousseau.

Public attitudes come to the surface in intensive form only in time of trials or when a so-called crime wave is sweeping the country. In criminal cases the desire of the offender to escape and the desire of his friends and relatives that he escape are strong and active. They do all they can to gain public sympathy. This strengthens the emotional side and weakens the rationality of the case. Unless the desires of other individuals may be interested in the service of the law administrative machinery, it is likely to fall into an easy going routine, readily manipulated into the interest of the offender, and the law in the books to become wholly academic.

It is very obvious that the making of laws is done very unscientifically. The law makers have no theory of their own. They follow the whims of the public, and endeavor to incorporate these whims into the laws of our land. Our public leaders, reformers and others are not agreed on any procedure of law making nor the enforcement of the laws. This unrest infects both legislation and administration with uncertainty, inconsistency and inefficiency. The sober views of a community and not its views when momentarily inflamed, should be represented and reflected in our administration of criminal justice.

As we approach the many popular attitudes represented by public opinion, we find that these fluctuate between the desire to make the law specific, well-defined, uniformly applicable, on the other hand, and the desire for greater latitude in treatment, and individualization as suggested by the works of Healy and others, on the other hand. We are in a dilemma. The pendulum of attitudes is constantly swinging from one extreme to the other and in many different directions. Society is confronted with the problem of striving to maintain the social interests and self-respect of the individuals, and at the same time protect society and its many interests.

Opinions are many, popular attitudes vary, and they are represented by alienists, business men, doctors, reformers, judges, lawyers and laymen. All of these with the exception of a few who have given special thought and study to the subject, have different theories as to

what is wrong with our system of administration of justice, and they have different "sure cures" for the maladies.

Let us notice a few of the recent popular attitudes expressed in current literature and from the forum. Dean Pound says:

"One of the most insistent demands of today is for individualization of criminal justice that will not turn recidivists through the mill of justice periodically at regular intervals nor, on the other hand, divert the youthful occasional offender into a habitual criminal by treating the crime, in his person, rather than the criminal. The public is impotent. But we can no more return to the old methods than we can return to horse cars or ox-teams or flails or sickles. We must go forward scientifically and not vacillate between extreme experiments along new lines and reactionary reversion to methods that belong wholly to the past."

Charles Evans Hughes, in an address before the American Bar association, speaking of the dangers of current attitudes toward the administration of criminal justice said in part:

"The most ominous sign of our times, as it seems to me, is the indication of the growth of an intolerant spirit. It is more dangerous when aroused. In a democratic society, the enforcement of law finds its justification not in the interest of authority as such, but in the maintenance of respect for law as proceeding from a free people and as being essential to liberty which vanishes if violence and disorder usurp the place of law."

Justice Miller says, "It is therefore hard to say which phase of the subject most needs attention. My judgment is that we can well put our best repair men to work all along the line.

"In general we can say that anything which now consists in our procedure law which contributes to delay in prosecution, anything which divides responsibility of administrative officers or prevents effective cooperation between them, anything which makes possible, by reason of lack of adequate influences, political or otherwise, on witnesses, contributes to defeat a proper administration of the criminal law and becomes an appropriate subject for change through the instrumentality of a model code of criminal procedure."

The lawyers say that they are making an effort to correct defects in our criminal procedure. Others say that the lawyers are blocking the efforts toward reform. At any rate, the people are beginning to realize that something is wrong somewhere. They are insisting, and rightly, that something be done to control crime and to secure the detection and conviction of those who commit crime. The number of

serious crimes continues to increase. The press has been full of the accounts of the depredation of criminals, and leaders of public opinion have widely discussed methods of relief. The ramification of crime has reached far beyond the boundaries of the cities. The responsibility of this condition has been variously placed. The courts, the police, prosecutors and juries have been and are still severely criticized. The management of penal institutions, welfare, societies, social agencies, the home, the schools and the churches have come in for their share of this criticism.

Again opinions differ. It is not possible to fix the blame. Opinions are so diversified. Here is an opinion emphasizing sentimentality as the chief factor in the administration of criminal justice. Of course this writer thinks that this is the cause of all our trouble. There are many who have the same attitude as he. James L. Ford, in an article in *Scribners* says, "So long as we slobber over thieves, murderers, and swindlers instead of punishing them, the periodic crime waves will continue to roll on, robbing us of our savings and disturbing our peace of mind. And of one thing we might be sure, the present deplorable condition will continue as long as sentimentality is permitted to usurp the offices that rightly belong to justice and reason."

There is another popular attitude represented by Judge Olson and Dr. Hickson, both of Chicago. They call it a discovery. It is that crime as we know it is the necessary expression, in action, of the workings of a defective brain. They have estimated that eighty-nine per cent of all crimes are due to heredity. Hence the cure for crime consists in stopping the breeding of mental defectives. According to their theory, criminals should be sentenced by the courts to farm colonies and segregated from the opposite sex or desexed so they could not propagate their kind.

An attitude that has gained much headway among the populace is what is often called the "sale of justice." The average citizen sees the poor man arrested and locked up, kept in jail—not set free on bail as the man with money—allowed to languish in jail for weeks and months, then ultimately tried, convicted and sent to prison. At the same time he sees the man with money arrested, immediately released on bail, set free, and if he is a professional criminal, he proceeds immediately to resume his life of crime. He sees the trial delayed for months, while the offender is at liberty, free to go and come as he will, without restraint of any kind. Then he sees the trial drag out, every advantage taken of the technicalities of the law and ultimately the

prisoner is either set free or given so light a sentence that he becomes a very travesty on justice.

Chief Justice Taft says, "The trial of a criminal seems a game of chance, with all chances in favor of the criminal, and if he escapes he seems to have the sympathy of a sporting public."

Sutherland brings out a common popular attitude in the following quotation: "From the special point of view of the administration of criminal justice much more must be done to remove the general belief that delinquency and crime are entirely under volitional control of the individual. The result of this attitude has been to make the treatment applied in each case dependent in a large measure on the degree of anger or annoyance to which the community has been aroused. Vindictive and punitive treatment, even though exercised by the group, loses little of the personal element. The community says to the delinquent, 'You could behave yourself if you wanted to. If you break the laws, it is because you intended to and therefore we are going to get even with you.'" It can secure from legislatures any salutary law. But it can be effective only when its demands are intelligent, only when its criticisms are just and based upon proper possession of facts, and also when it takes into account all the elements of official responsibility. At the same time it may be very detrimental to law and order if unenlightened and uninformed.

Popular views of pardons and paroles are that an executive act of clemency by means of which the prisoners are released from institutions, may be obtained by political "pulls." This is substantiated by many examples. In Nebraska the average life sentence is only seven years and eight months.

Another popular notion is that cases of appeal, defective functioning of juries resulting in mistrials, retrials allowed by the trial court, and change of venue are important factors in the delay of justice; that they are phases of its weakening, and that they tend to reduce public confidence in the judicial process in general. Dean Pound says there is a growing attitude against the American jury system. Constitutional amendments in a growing number of jurisdictions admit verdict by less than the whole number of jurors and powers of reviewing the verdict of juries are being conferred on courts in some of our most conservative states.

The jury system is charged with cumbersomeness, expense, ignorance and inefficiency and undue advantage to defendants in criminal cases. It is also charged that too many "bench warmers" are permitted to serve on the jury. There has been some diversified opin-

ions as to women serving on the jury. Good arguments are given on both sides.

### III

Capital punishment has come in for a share of popular attitudes. There is a group of opinions which are in favor of capital punishment. Those who advocate strict law enforcement and severe punishment do not necessarily advocate capital punishment. There are others who are opposed to it without any qualifications or reservations. There are also others like Harry Elmer Barnes, who look upon the question of capital punishment as of no particular significance. Barnes says that it is a "problem which relates to only a minute fraction of the criminal classes as a whole and it involves a discussion of issues which are, to the educated and scientifically minded person, of purely historical significance."

Sutherland says, "Capital punishment has been restored in four states since the war, and in many places there is a strenuous demand for the whipping post. In almost every magazine we may expect an occasional article on 'the rising tide of crime' or 'cross country crime' or on rallying against crime! One of the propagandists of this movement stated the principles on which they all seemed to be working, namely, that the salvation of our democracy depends upon the 'development of an angry realization of the situation.' Crime commissions are recommending increased severity and certainty of punishment."

Another attitude which has gained followers is the idea that the criminal should be dealt with by the courts as a sick man. Darrow says, "Criminals should be treated as mental and moral defectives, and that by early and wise treatment crime can be eradicated." Not long ago Darrow made an appeal for a neuropathic hospital for treating criminals in New York. Judge Alfred Talley of New York City refuted his arguments as follows, "It is not the criminals, actual or potential, that need a neuropathic hospital," he says, "but it is the people who slobber over them in an effort to find excuses for their crimes. The demand for the hour in America above all countries, is for jurors with consciences, judges with courage, and prisons which are neither clubs nor health resorts." An increasing number of others are saying that the court should deal with the accused as one who shows manifestations of mental difficulties and poor social adjustment which requires treatment by trained psychiatrists.

An opinion which seems to be substantiated conclusively by all criminologists as well as the public is that the administration of crim-



inal justice machinery does not move fast enough. Too many technicalities and loop holes are found and taken advantage of. Judge Kavanaugh is a strong leader in the development and perpetuation of this opinion. He shows that this attitude has an historical setting in England, changes from the strictness and exactness of law being made to meet certain ideas of leniency. The United States adopted the criminal procedure from England while the tendency toward leniency was in force. England later modified her procedure to conform to changes in their society, but the United States have not yet changed. This development is an interesting history but these remarks will suffice in this discussion. Judge Kavanaugh says that it is up to the people to change the attitude of leniency to one of strictness and swiftness, not to pass so many laws and enforce the ones we have.

These various popular attitudes are now being carefully studied with reference to the administration of criminal justice. The studies so far have not made much headway, but a good start has been made on a difficult problem. Among the organizations that are doing the most in this field are such criminal justice surveys as the Cleveland Foundation survey (1921), the Chicago Crime Commission (1923), the Missouri Association for Criminal Justice (1924), The New York Crime Commission (1926), and other state organizations of minor importance. From a national standpoint we have the National Crime Commission, whose duties are to help set up state criminal justice commissions and to assist with surveys. It expects to disseminate widely information regarding crime and to stimulate public opinion in support of policies favored by it. It has set up as one of the goals the task of investigating the administration of criminal justice in the United States and of proposing effective means of improving the conditions found.

The *New Republic* of August 26, 1925, in speaking of the need for the National Crime Commission makes the following comment: "It is no exaggeration to assert that the administration of criminal justice has broken down in the United States and that in this respect American state governments are failing to perform the most primitive and most essential function which society imposes on government. Life and property are less secure in the large American cities than ever before in the history of the country. American public opinion does not provide at present a soil or an atmosphere in which fundamental reforms obtain their indisputable nourishment. The public is troubled by so much unindicted and unpunished crime."

## IV

Our system of criminal administration was planned for pioneer agricultural communities and has remained substantially unchanged. A system planned for 1825 is, unless appropriately modified, broken down entirely by 1925.

Mark O. Prentiss has described the National Crime Commission as, "the crusade of organized business against organized crime. It is futile to expect any improvement in the administration of the criminal law in this country until the people engaged in the work of administration are willing to have their own behavior systematically watched, recorded and tested."

There is no doubt that the records of local police departments and prosecuting officials and courts are flagrantly deficient. The writer has found this condition many times when he made and attempted to make local and state crime surveys. This particular negligence is itself a sufficient admission that the officials are avoiding the light. In some instances it is their ignorance and they are willing to keep better records after they are shown how. The tendency is to live and move in an atmosphere of self-satisfaction.

One of the most helpful signs of our times is that leading law schools, such as Harvard Law school, have realized that research into the problem of administration of criminal justice, research into the possibilities of dealing with evils by legislation and research into social and political organizations, are essential under contemporary conditions in order to gain anything like an intelligent solution of the problem.

Another line of endeavor in the study of opinions and conditions is being made by the American Bar association through the American Law institute. William Draper Lewis in the *Annals of the American Academy*, of May, 1926, says that the American Law institute has undertaken to formulate a model code of criminal procedure. He says that this "action marks a definite step forward in the solution of America's most pressing domestic problem. The administration of criminal justice in the United States is a failure. This is an alarming fact. It is not a new condition. For years the failure has been potent to any careful observer, but it has taken the recent appalling increase in crime to make us realize it."

## V

It is generally not the theory of the theorists which influences the practitioner, but the theory of the average citizen. With the idea

of determining the theory of the average woman citizen of the state of Nebraska a brief survey of the criminal courts of Nebraska was made by the Nebraska Federation of Woman's Clubs and myself last year. The purpose of the survey was "to find out the actual output of the courts so that the women of the state might acquaint themselves and the public with the disposition of the cases in which criminal offenses are charged."

The popular attitude toward criminal justice as expressed by these women was that the recognition on the part of all is the lack of respect for the observance of law, and that this has increased to such an extent that thinking people are coming to the conclusion that a remedy must be found. Their preconceived conclusions as to the cause of increase of crime were the following: too many delays in getting offenders to trial, too many chances for them to go free before they face a jury and too many skilled attorneys who make use of technicalities which are used to defeat the ends of justice. The results of the survey of the criminal courts in seventy-four counties of the state revealed the fact that the above attitudes were well founded. The conclusions of the survey and the public report of the same to the State Federation appeal to the several thousand women club members in the state to use their influence to change the basis for these attitudes toward criminal justice by removal of the cause through the expression of their right of suffrage.

In studying the popular attitudes toward the administration of criminal justice one must not overlook the greatest and most powerful medium for the expression and creation of opinions and attitudes, namely, the newspaper. Practically all opinions formulated and expressed by individuals as such, were first suggested or expressed in the columns of the newspapers. Most of the attitudes expressed by the newspapers are in the form of indirect suggestion. Conclusions are drawn, and opinions are formed unconscious to the newspapers. They furnish the substance out of which opinions and attitudes are manufactured. It follows that the attitude of the newspaper toward crime and the punishment of the offender, will produce at least a tendency in popular attitude in the direction to which the paper leans. Since the newspaper's influence for the most part is a matter of suggestion, there is as yet, no definite technique by which we can scientifically study the actual influence of the press on the popular attitudes toward the administration of criminal justice. We do know, however, that its influence is powerful.

So the remainder of this article is devoted to this phase of the problem as far as available data are at hand. This is, indeed, a fertile field for investigation. Many opinions have been expressed by various individuals and students on the subject. Thornton H. Pratt, in the *Independent*, May 16, 1926, says: "As a result of my observation, during the last three or four years, of the conduct of certain newspapers in such matters, it has become my judgment that the keynote of their attitude toward crime and the enforcement of criminal law is one of the flippancy. One metropolitan daily goes still further in this respect and makes a practice of holding officers up to ridicule by frequently, in headlines and text, referring to prohibition enforcement officers as 'snoopers.' What do we have? For the most part, it seems, a group of callow youths, photographs and sob-sisters reporting and picturing the current great criminal cases, emphasizing, playing up, laying stress upon even comical, humorous, sensational or ridiculous phases which their vivid and lurid literary vision sees in the affair from start to finish." Mr. Pratt points out that some of our newspapers are false teachers because they cry for enforcement of laws in their editorial columns and run in their news columns the flip-pant type of reporting as they do.

Many writers point out the tendency for the newspaper, consciously or unconsciously, to undermine sound judgment and to bring our legal system into contempt. Most newspapers say that the public demands the sensational type of news, therefore, they must satisfy their constituency.

Two years ago the writer made a very interesting little study of the attitudes toward crime reporting as expressed by the three metropolitan dailies of Omaha. The study extended over a period of one month in the fall of 1925. Every reference to crime committed anywhere was clipped from these three dailies, two of which are issued both morning and evening. We found that the different crimes reported could be grouped under nine headings, with the greatest amount of space given to murders all of which happened elsewhere. Reference was made to murders one hundred and forty-nine times. Each murder was reported on an average of six times. One paper, *Omaha Daily News*, devoted more space to murders. It was not uncommon for it to have a banner headline of two inches extending all across the front page telling about a murder which happened in Budapest or almost anywhere else.

Most of the crimes reported during this period were local. They were theft, housebreaking, bootlegging and the like. Each of these

crimes received an average of three inches per issue. *The News* devoted one-third of the front page to this kind of news and scattered the remainder of the crime news over the paper. Naturally the write-ups were not the same. The local papers have been given a common office at the police station where the police reporters assigned by each paper, write up and telephone to their respective papers the same happenings.

"The police, the prosecution and the criminal courts quickly refer to the press as one of the great sensory nerves in the organism of criminal justice. Public officials and private citizens alike in representative numbers, regard the newspapers for weal or woe, as an indispensable factor in the situation," says the Cleveland Foundation Survey of Criminal Justice.

Members of bar associations and others in close touch with criminal procedure, all alike sound the universal assumption as to the power of the press. To this fact must be added the volume of actual space given by newspapers in every metropolitan center as well as in many rural communities, to news of crime and punishment. When it is noted that the news space given to material that might be classed under the category of "administration of criminal justice" ranges from about eight per cent to thirty per cent of the total news space and in some cases even higher, we must realize that its influence on popular opinions must be far reaching. The quality of what is printed or not printed must exist a potent influence upon those who administer justice as well as upon the thought of the community. The work of the police, of the prosecution, of the courts, of penal institutions may be largely judged by standards in any community, but not with the press. Its influence is so intangible and elusive.

First of all we must realize that the public derives its opinions about the administration of criminal justice from the newspaper reports; that the influence exerted by popular opinion on the system of criminal justice is largely dependent upon the extent of informed opinion in the community; that the whole scheme of criminal justice is not affected by editorials but by the hasty glance at the more vivid and persistent, as well as more potent, influence of the daily news column. With due regard to limitations which confront the press, the newspapers can furnish fairly accurate, sober, well balanced, and interesting news of, and comment on, the functioning of criminal justice, and thereby contribute toward creating and sustaining the necessary informed public opinion.

Time is a great factor. Speed is essential. Undoubtedly the public wants an exciting stream of news; but also undoubtedly, the public has been taught by the press to want such news and the press continues fervently to stimulate the want. Competition has been and is a responsible factor. Perhaps no business today discloses fairer, less restricted competition than the newspaper business. Since this is a struggle for the capture of the public's mind, the acts that are exercised, the interests that are excited or neglected are bound to have vital effect upon that most intimate and extensive aspect of a community's life called criminal justice. Temporary excitement is bound to influence the tone of the press under its present keen competition. It is often found that a play for favor of newspapers is made by officials whose public professional life depends on advertising. Eager for special opportunities, the reporters sometimes play favorites with police officials, judges and prosecutors. The barriers of impersonalness which should exist between law enforcers and the press are thus broken down. The result is a confusion of standards, and conscious or unconscious partiality and exploitation by the press.

The situation is such with our newspapers that as they are individual, privately owned and operated concerns, no organized body can have any control of them. "Organized advertising can wield a hand by means of boycotting but this tool is very infrequently resorted to." The present newspaper, to live, must reach the largest number of readers at the smallest possible price.

One very obvious factor which reacts strongly against the building of constructive attitudes toward criminal justice, is the fact that most reporters are untrained and the diversity and frequency of his shifts usually prevent the reporter from acquiring much obligation toward the reader for material, nor can a solid basis of knowledge of a background for discerning judgment be thus built up. Frequently reporters serving apprentice or very amateur are assigned the police station and court.

The Cleveland survey points out that there are two main evils excited by the press which affect administration of criminal justice. They operate either as effective interference with the orderly and just administration of law, or as the most potent molder of the kind of public opinion which is wholly incompatible with civilized standards of criminal justice. Interference by the press with effective law enforcement may be expressed in two forms, by direct participation by the press in law enforcement which is usually very ineffective, and

the other is irresponsible publicity which embarrasses the official detection of wrongdoing or hampers the impartial processes of law in the trial of the accused. The public's sympathy or indignation is often aroused. This very obviously interferes with justice. Their simple reply is that their views and articles must have the human interest, even though it is often at the expense of corruption of the community. Instead of a sober summary regarding action taken by police and prosecutor, or of the evidence presented at court, current methods of newspaper writing permits the selection and treatment of newspaper material in a style plainly intended either to condone or condemn the accused.

A deeper cause for concern is the quality of public opinion resulting from the treatment of individual cases. The paper gives a bit of news on a case today, more tomorrow and so on. The thing that is "played up" from day to day gradually determines the public's opinion as well as the official mind. It is not surprising that judges and prosecutors, dependent upon passing public favor, will consciously and unconsciously cater to the prevailing mood of the newspapers as the molders and exponents of public opinion. It has a great deal to do with the size of fines and term of prison sentences. The public takes the superficial report in the paper as final and authentic and thus hasty half-baked judgments are based only on the reports.

Our system of administration of criminal justice has many faults, but after all the entire system as actually administered is largely a reflex of the general community standards wherever it is located. This is peculiarly true of the part the press plays. The press makes it possible or else makes it impossible to bring about changes. As someone has aptly said, "The press makes public opinion and public opinion makes the press."

Sometimes a very great injustice is done the administration of justice by the so-called "trial by newspapers." Immediately after a crime is reported to the police, the newspapers print details of the crime itself, together with all the available clues. If the crime has sensational features, as is usually the case, these clues are worked with special care and emphasis, and if possible some indication of persons suspected is given. Daily developments of the case are given which many times furnish information to the fugitive, thus enabling him to more easily evade the arrest. There is the ever-present danger of creating a definite and wide-spread opinion as to the merits of the case in anticipation of the trial. This creates an atmosphere and a

social mind that is difficult to overcome. Popular attitudes are hastily formed but slowly changed. Misinformed opinions are released which often do an injustice to the accused or to the prosecution. Dangerous prejudices are often formed. Also when an actual or alleged "confession" has been made, newspaper reports of the case before and during trial frequently refer to the confession and thereby create a presumption of guilt. The public does not always realize that a confession does not mean guilt every time.

Newspapers sometimes make drives against crime and lax punishment. These are effective if the pressure is not too great. Speed and pressure at the expense of fairness and justice are worthless and really harmful. So-called "crime waves" are usually the sign of one of these sporadic drives. That is why it is often said that newspapers cause the "crimes waves."

Whole systems of penology have been made much reduced in their effectiveness through unwarranted and uninformed newspaper reports. Again we find them jeopardizing constructive institutions through superficial sensational reports. The public is always in a receptive mood for such "facts." The press, in reporting fines, sentences or other actions of officials often emphasize non-essentials and play on sensationalism. The results may be tragical. Such irresponsibility leaves the newspapers free to exploit the individual judge for political ends in fact to make or unmake judges.

Mr. Baume, of New York tells of an instance which shows how frequently newspapers unwittingly give false impressions and thus weaken respect for law enforcement. He says: "Not long ago I read in a Brooklyn paper head line like this—'Life Imprisonment for Stealing a Joy Ride.' Of course we know that is ridiculous. We do not send men to prison for life for stealing a joy ride. The article, down through the fine print, brought out the fact that before this man stole the joy ride he stole the auto in which to take the joy ride, and then that he might celebrate the occasion properly he proceeded to get drunk and then in his intoxicated condition he began to drive that car in a zig-zag fashion through the crowded streets of New York where he was arrested."

The newspaper can be a great force for the proper administration of criminal justice and in many cases our leading metropolitan newspapers are great factors in criminal reforms. Mr. Davidson, chairman of the National Crime Commission made a statement that when he was prosecuting attorney in New York City the newspapers stood be-



hind him four square and were equal to an additional force of two-hundred policemen and ten judges; by their aid in upholding the most efficient form of administration of justice and by cooperating with him in reporting crime.

Both the New York Crime Sub-Commission survey and the Cleveland Foundation survey made careful studies of opinions and attitudes of judges, police officials, lawyers, and others, which they collected by the questionnaire method and by personal interviews.

The New York survey gives an interesting study of the effect of newspaper opinion on the Hall-Mills case. More newspaper inches were published on this case than any other in New York, the report states. And they showed bias all the way through. The study by the Sub-Commission was to discover the effect of alleged newspaper bias on the minds of the public. On November 18, 19 and 24 of 1926, investigators were employed by the commission to board subway trains at random and to put questions on this case to the newspaper readers selected at random. The questions asked were: Did you read the Hall-Mills case, if so in what newspaper? Is Willie Stevens guilty? Is Henry Stevens guilty? Is Mrs. Hall guilty? Fifty readers of the *Mirror* (a paper strongly biased against the defense) voted. Forty-four voted that Willie was guilty. Forty voted that Henry was guilty and forty-one voted that Mrs. Hall was guilty. Of the readers of the *New York Times* only seven percent considered Willie guilty against eight-eight percent of the *Mirror* readers who voted him guilty. Most of the readers of the *Mirror* held that all three defendants were guilty. It is further noted that the proportion of doubtful opinions is highest among the readers of the *Times* and the *Tribune*, and that the *Sun* and the *World* in this respect have a fairly large percentage of doubtful opinions. It was further noted that the accounts published in the *Times* apparently led few readers to an unqualified opinion of guilty, while the readers of the *Mirror*, *Graphic*, *Journal* and *News* were fairly definite in their opinions. The *Graphic* was strongly biased against the prosecution. The *Sun* strikes a balance between the two groups.

The Sub-Commission put the following question to judges, district attorneys, police officials and others: "Do you consider that the methods used by the newspapers in securing and presenting crime news are in any way a factor in the present crime situation?" The replies were as follows:

	Yes	No	Non-Com- mittal
Supreme Court Justices .....	7	14	5
District Attorneys .....	8	11	3
Other Judges .....	12	7	8
Chiefs of Police .....	6	6	1
City Police Officials (New York)...	9	4	4
State Trooper Captains .....	0	4	2
	—	—	—
Total .....	42	46	23

The conclusions of the Sub-Commission as set forth in their report are as follows:

“We feel that any fundamental attack upon the cause of crime and of the failure of the administration of justice to cooperate as it should must take into consideration certain conditions that characterize present day journalism. These conditions are summarized in the following:

“The fact that certain of the modern newspapers, particularly the so-called ‘yellow’ variety, reach a stratum of the population that probably never read newspapers in the earlier days is bringing to bear powerful influence upon certain persons whose mental age and characteristics permit them to be profoundly impressed and influenced by what they read. The power of suggestion is so great among these classes that they are being influenced in the direction of criminal practices much more than ever before. This danger is very difficult to deal with.

“It is unquestionably a public menace for newspapers to present the details which they now print regarding the crime and divorce cases. While England has pointed the way in forbidding the details of divorce cases, it is not likely that satisfactory legislation can be devised to meet this problem. Much can be gained, however, by the action of strong and fearless judges who can unquestionably prevent much of the degradation to which the ‘yellow’ press has submitted the courts.

“Newspapers should exercise more care in presenting the news of crime to avoid statements that might give aid to criminals who are seeking to escape capture. On this point legislation should ultimately be devised to provide for punishment of a newspaper for publishing facts which might assist in the escape of criminals.

"A police department, can and should so control its information as to provide for its protection against premature publication of important evidence and important projected activities. Likewise, the District Attorney's office should exercise greater discretion in releasing news."

Reading of dime novels, sensational journals, newspaper reports and so forth, often affects the administration of criminal justice indirectly. For instance, the juror may see in the wreck before him only a heartless murderer or instead of that he may see a man who has actually lived for a few thrilling moments, the untamed life which the juror has romantically envied in his reading. The juror's imagination has been trained to create a glamorous background for the human before him.

A Baltimore judge a few days ago showed his opinion of the influence of the newspaper on administration of criminal justice in his court. When he was presiding at the murder trial of Whitmore newspapers of Baltimore insisted on playing up the accused with stories, photographs and so forth. The judge forbade them taking pictures of Whitmore. The *Baltimore News* continued to insist. The result was that the judge sentenced three editors to a day in jail for contempt of court and in addition fined one of the editors five thousand dollars.

Charles P. Taft, the second, prosecuting attorney of Hamilton County, Ohio, says that Remus was acquitted by the newspapers, and after he was acquitted they turned on him and sent him to the insane asylum. Mr. Taft asks the question: From the public standpoint, shall a defendant be allowed to try his case in the newspapers with material that is not admissible evidence in court and get himself acquitted in a wave of popular sentiment manifested by himself and his representatives?"

On November second and third, 1927, a national conference on the reduction of crime was called in Washington by the National Crime Commission. The meeting had for its chief object the providing of an opportunity for the exchange of views. Every organization had its spokesman who represented his own point of view, his opinions and his attitudes toward criminal justice and its administration in the United States. Thus in this study we have noted many different popular attitudes expressed by individuals in different walks of life, with special emphasis on the press as a means of expression. As yet there has not been discovered any workable criterion by which to satisfactorily measure these social phenomena. It is obvious that these

popular attitudes do have their influence both directly and indirectly toward the efficiency or inefficiency of the administration of criminal justice in the United States. It is not within the scope of this article to deal with any proposed remedies suggested by the many writers on the subject. It has only been possible to touch the chief popular attitudes briefly and to present the problem. The problem is one that invites careful and thorough study by trained social science research workers. Especially is there a need for more scientific studies of the influence of the newspaper on the administration of criminal justice.