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## WHAT IS PROBATION?

LEWIS DIANA

The author is Professor and Chairman of the Sociology Department of the College of William and Mary, Norfolk, Virginia. He has also served on the faculties of the University of Pittsburgh and Florida State University. From 1949 to 1951, Dr. Diana was a probation officer in the Juvenile Court of Pittsburgh, Pennsylvania.

In this article, Professor Diana surveys both the literature and the practice in the field of probation. Predominant in recent literature, he finds, are the views that probation is principally a matter of (1) case work, or (2) administrative measures, or (3) a combination of the two. Comparing the literature of probation with actual practice in the field, he discovers some significant discrepancies. Experienced workers in probation, for example, do not have as well defined views of what probation is as do the writers in the field. The workers agree with the writers, however, that treatment of the individual probationer is the principal function which probation ought to serve. According to Professor Diana, the main difference between theory and practice lies in the fact that treatment is actually a very small part of the work of probation officers; administrative work, such as obtaining reports on the activities and behavior of the probationer, is the main job of the probation officer today. In a critical appraisal of the ideas which dominate the field of probation, Dr. Diana takes issue with what he terms our current "obsession" with psychodynamics, whereby we center our attention almost exclusively on the offender himself. To restore balance, he recommends that much greater attention be given to the social system itself and to the possible need for fundamental social reform and reorganization.

The author prepared this article at the special request of the Board of Editors in commemoration of the *Journal's* fifty years of publication.—EDITOR.

### SUMMARY OF HISTORICAL DEVELOPMENT OF PROBATION

Some authorities trace the roots of probation to the middle ages when such devices as the benefit of clergy and the law of sanctuary made it possible either to avoid or at least to postpone punishment.<sup>1</sup> It is more likely that there was not any continuous linear development of probation, although one can point to various forerunners such as the judicial reprieve, by which the court suspended the imposition or execution of a sentence, and the practice of releasing an offender on his own recognizance. Consequently, probation was probably more directly an outgrowth of the different methods in England and America for suspending sentence.

Under the common law the courts of England had for many years bound over petty offenders to sureties or released them on their own recognizance even without sureties.<sup>2</sup> Such practices were also common in some of the American colonies, especially Massachusetts, which in 1836 recognized

by law the releasing of minor offenders with sureties. In 1869 this same state also authorized the placement, after investigation, of youthful offenders in private homes under the supervision of an agent of the state.

Credit for the first use of the term probation goes to John Augustus, a Boston shoemaker, who apparently became interested in befriending violators of the law, bailed many of them out of jail, and provided them with sympathetic supervision. This was as early as 1841. It was not until 1878, however, that the first probation law was passed, Massachusetts again taking the lead. In that year the mayor of Boston was given the power to appoint probation officers, and only two years later, in 1880, the law was extended to apply to other communities within the state. Then in 1891 Massachusetts passed a second law, which required the extension of probation to the criminal courts. By 1900, though, only five states—Massachusetts, Missouri, Rhode Island, New Jersey and Vermont—recognized probation legally.<sup>3</sup> By 1933 all states except Wyoming had juvenile probation laws, and all but thirteen states had

<sup>1</sup> Halpern, *Probation*, ENCYCLOPEDIA OF CRIMINOLOGY 388 (Philosophical Library, N.Y., 1949).

<sup>2</sup> UNITED NATIONS, DEPARTMENT OF SOCIAL AFFAIRS, PROBATION AND RELATED MEASURES 16 (1951).

<sup>3</sup> BARNES & TEETERS, NEW HORIZONS IN CRIMINOLOGY 760 (2d ed., Prentice-Hall, N.Y. 1955).

adult probation laws. This latter group had been cut to five states by 1950: Mississippi, Nevada, New Mexico, Oklahoma and South Dakota.<sup>4</sup>

The variety of legislation governing probation in the United States may have stemmed (1) from the Supreme Court's denial in the *Killits* case that there existed any inherent judicial power to suspend sentence or any other process in the administration of the criminal code and (2) from the different points of view which developed concerning the practice of probation. The result, in the United States at any rate, has been to give to the courts a fairly wide discretion in the use of probation.

It remains to be said that with the creation of the Cook County Juvenile Court in 1899, probation as a principle and as a practice received great momentum. Great hopes have since been pinned upon it.

#### DEFINITIONS OF PROBATION

##### *Probation as a legal disposition only*

One point of view sees probation simply as a suspension of sentence by the court. Since sentence is not imposed, the offender remains in the community until the length of the sentence has expired, unless, of course, in the meantime he has engaged in any conduct that would warrant carrying out the sentence. This system leaves everything to the probationer and makes of probation a simple policing procedure. Therefore, it implies two things to the probationer: another chance, and the threat of punishment should he fail to improve his behavior.

In point of time this view has been expressed by authors, mostly with a legal background, writing in the first decade of the twentieth century. I have found no references to it after 1908 when Judge McKenzie Cleland put it this way: probation is a plan "of suspending over offenders the maximum sentence permitted by law" and of allowing them "to determine by their subsequent conduct whether they should lose or retain their liberty...with the full knowledge that further delinquency meant...severe punishment."<sup>5</sup>

##### *Probation as a measure of leniency*

In a review of the literature I found but one author who took this approach to probation.<sup>6</sup>

<sup>4</sup> *Ibid.*

<sup>5</sup> Cleland, *New Gospel in Criminology; Municipal Court of Chicago*, 31 *McCLURE'S* 358-62 (June 1908).

<sup>6</sup> Smith, A. C., *Does Probation Aid or Prevent Crime?*, 125 *ANNALS* 242 (1926).

However, it probably best represents the general lay point of view, as well as that of most probationers. This fact presents a basic problem to professional personnel, who view probation as a form of treatment. Many offenders, however, especially among juveniles, feel their acts are unfortunate slips, and while possibly inexplicable, they are, in the final analysis, choices between right and wrong, choices which the offenders feel capable of controlling. Consequently, in their own minds they are not sick persons nor necessarily even the products of undesirable environments and so certainly in no need of treatment.

##### *Probation as a punitive measure*

This again represents a view which has found little acceptance in the literature, especially during the last fifty years. I discovered only one writer who made punishment the *dominant* note in his theory of probation. According to Almy, probation must be presented to the probationer as a form of punishment, one which permits him to escape commitment and its stigma but one which also makes other demands. If these demands are not met, then the probationer can expect to receive the same type of punishment as other offenders.<sup>7</sup> The assumption underlying such a view is that it is the certainty of punishment which deters.

##### *Probation as an administrative process*

It is likely that the earlier ideas of reform and rehabilitation attached to probation came about as a reaction to the various abuses associated with the imprisonment of children. As a result, a great deal of sentiment was tied to the concept of probation in its beginnings. This sentiment, together with the goal of reform or rehabilitation, formed the nucleus of the conception of probation as an administrative process. Essentially what probation consists of under this conception is the execution of concrete measures aimed at helping the offender stay out of further trouble. The ultimate goal of complete rehabilitation in this approach, however, was something which was more hoped for than worked for. In this respect it is a fairly negative approach consisting mainly of things done for the offender in the *hope* that they will *somehow* deter him from a further career in crime. Thus, arranging for medical treatment, making

<sup>7</sup> Almy, *Probation as Punishment*, 24 *SURVEY* 657 (1910).

appointments for the administration of tests, effecting school transfers, seeking employment for the offender, checking on his activities, and so on constitute the major content of probation under this viewpoint.

Slightly more than thirty per cent of the authors writing in this field have seen the administrative process as the major framework of probation.<sup>8</sup> Most of these, however, date from 1902 to 1920. Since 1935, only two writers have espoused this concept. This fact may indicate the close identification of the correctional field with social work, which was largely administrative in the earlier years. Later, changing concepts and techniques in social work quickly found their way into child welfare and juvenile court probation services. The newer approaches represented by case work and its psychoanalytic foundations have not found unanimous approval, however.

Thus, Dr. Philipp Parsons of the Department of Sociology, University of Oregon, has stated:

"In the rehabilitation field . . . research and administration become the all important factors. Research consists in getting the facts of a given situation, and administration consists in devising programs adapted to the facts and in carrying out these programs by whatever techniques the conditions may make practical. . . .

" . . . changing conditions, economic, political, and social, have shifted the major emphasis in remedial work from individuals and families to groups and conditions. Training for remedial work, therefore, must be built upon a base of research, organization, and administration rather than upon the case work which was the foundation of social work training in the past generation.

" . . . rehabilitating convicted persons in connection with a scientific system of penology . . . is primarily an administrative job and also primarily a job for men."<sup>9</sup>

The process of probation which follows an administrative pattern is illustrated in an article by Jessie Keys. Writing in *World's Work* in 1909, Miss Keys stated that the search for ultimate causes is not the least important work of the juvenile court. These causes were usually felt to be parental neglect or parental vice or both. To illustrate she

cited the case of a boy who had a mania for stealing pocket knives:

"His father and paternal grandfather had been master mechanics. After his father died his mother led an irregular life and neglected the boy. His hereditary instincts came to the surface. Since his mother refused to help him gratify his desire for mechanics, he undertook to gratify it in any way he could."<sup>10</sup>

Unlike modern case work, no attempt was made during the boy's probation to help him "verbalize" and express his feelings and so come to a personal solution based on the untapped resources of his deeper personality. Instead: "We went to his mother and she awoke to her responsibility. We talked to the boy firmly and found him willing to work. Finally, we found a position for him."<sup>11</sup>

The probation process not only included finding work for the boy but also included telling the mother how to keep her house clean and giving her other directives. It literally forced the boy into a certain mold, by the use of pressure, and sometimes intimidation, to do what he was told was right. Thus the probation officer attempted to produce what was not ordinarily a part of the boy's pattern of behavior.

In 1910 Maude E. Miner, Secretary of the New York Probation Association, reported that probation for the convicted girl consisted of a process of character building through discipline and correction. These were applied by obtaining employment for the girl, visiting her home, getting the cooperation of her parents, providing needed medical care, and bringing her into contact with beneficial influences such as churches and clubs.<sup>12</sup>

In 1911 the Illinois law on adult probation provided that certain categories of first offenders could be placed on probation. The court was obliged to impose certain conditions designed both to protect the community and to give the probationers some "sensible practical aid." These conditions included paying court costs, supplying bond, supporting dependents, and making regular reports to the probation officer.<sup>13</sup> Obviously, under such circumstances probation could be little else than administrative.

<sup>10</sup> Keys, *Cases of the Children's Court*, 18 *WORLD'S WORK* 11612 (1909).

<sup>11</sup> *Ibid.*

<sup>12</sup> Miner, *Probation Work for Women*, 36 *ANNALS* 27 (1910).

<sup>13</sup> *New Illinois Law on Adult Probation*, 26 *SURVEY* 18 (1911).

<sup>8</sup> All of the available literature since 1900 has been reviewed. For a compilation, see my bibliography, *infra*.

<sup>9</sup> Parsons, P. A., *Qualifying Workers for the Correctional Field*, *YEARBOOK, NAT'L PROBATION ASS'N* 66-86 (1938).

From a figure well known in corrections, C. L. Chute:

"The probation officer must investigate all offenders and must keep himself informed concerning their conduct and condition. He must report on each case at least once every month to the court and must use all suitable methods not inconsistent with the conditions imposed by the court, to aid persons on probation and to bring about improvement in their conduct and condition."<sup>14</sup>

Or:

"The probation officer helps a man to get and keep a job, finds him wholesome amusement, looks after his leisure hours and generally backs him up to playing a man's part in the world much as the special war agencies kept up the morale of the army."<sup>15</sup>

The supposed therapeutic effects of administrative techniques are illustrated in an article by Platt:

"Get a boy into a good club, give him duties and see what happens—interest, pride, loyalty, ambition, cooperation, social teamwork, social sense, all will probably soon follow."<sup>16</sup>

In 1919 no less an authority than the sub-committee of the National Conference of Social Work summed up this point of view by reporting that the office of the probation officer is administrative. It may have its authority beyond the court but accountability to the court is, in the final analysis, the foundation of probation service.<sup>17</sup>

#### *Probation as social case work treatment*

Reinemann has defined probation as follows:

"Legally, in the case of an adult offender, probation is the suspension of sentence during a period of freedom, on condition of good behavior. In the case of a delinquent child, the juvenile court uses probation as a form of *case disposition* which allows the child to live at liberty in his own home or in the custody of a suitable person, be it a relative, a friend of the family, or a foster home, under supervision of an agent of the court and upon such conditions as

<sup>14</sup> Chute, *Probation a Federal Need*, 43 SURVEY 775 (1920).

<sup>15</sup> *Emptying the Jails: Probation System in New York City*, 100 THE INDEPENDENT 40 (1919).

<sup>16</sup> Platt, *Does Punishment Pay?*, 55 SURVEY 605-7 (1926).

<sup>17</sup> Parsons, H. C., *Probation and Parole; Report of the Sub-Committee*, NAT'L CONFERENCE OF SOCIAL WORK 113 (1919).

the court determines. *Socially, probation is a form of treatment* administered by probation officers on a case work basis."<sup>18</sup> (Emphasis added.)

The dichotomy between adult and juvenile probation seemingly is disappearing. In any event definitions of probation as a legal disposition are rarely found in current literature. On the contrary, the bulk of the literature—between eighty-five and ninety per cent of it since 1940—views probation as some form of treatment, more often than not casework treatment.

Casework and its foster parent, psychiatry, have had extensive influence in the juvenile court movement. This influence is illustrated by the broad scope of many of our juvenile court laws, by the shunting aside, in the rising tide of a clinical ideology, of legal precedents in favor of loose and informal procedures, by the indeterminate sentence, by the emphasis on the total situation of an offender, by the absorption with emotional problems, and by the prevailing adherence to a psychoanalytic theory of causation.

The point of view which identifies probation with casework treatment is difficult to analyze. It cannot be presented as a consistent or well-defined approach and appears, rather, to represent an attitude or state of mind in lieu of a technique or substantive theory. In any event the literature presenting probation as casework treatment generally defines probation as the *application* of case work principles and techniques in dealing with the offender. But what is case work?

Taber describes it this way:

"Case work . . . may be defined as a process of attempting to understand the needs, impulses and actions of an individual and of helping him to recognize these in a way that is satisfying to himself and yet in accord with the demands of social living.

" . . . treatment cannot be forced upon another person. . . . To help another person we must accept him as he is with an honest respect for his capacity as well as regard for his need to solve his own problem with whatever help the worker can give him. The case worker is concerned with assisting the individual to realize his own capacities to the fullest extent, as well as to orient him to the resources existing within his environment which will provide a satisfying outlet. In short, change to be effective depends

<sup>18</sup> Reinemann, *Probation and the Juvenile Delinquent*, 261 ANNALS 109 (1949).

upon the individual's willingness to help himself. . . . He must be assisted in finding his own way at his own pace. . . .

"Every phase of behavior has a different meaning for each individual, and treatment if it is to be effective must be differentiated according to the individual's need. . . . There are no formulas which we can readily apply . . . but we can sharply define in a warm but objective manner the alternatives which confront a delinquent in order that he may redirect his behavior if he has the strength and will to do so."<sup>19</sup>

Most concepts of case work also include assumptions concerning the nature and causes of delinquent behavior:

"Delinquent behavior and other forms of conflict are generally compensating substitutes for experiences and impulses which the individual fears to recognize and dares not express. The tension resulting creates frustration and fear. Whether or not the release takes the form of a criminal act is purely fortuitous and is dependent upon the attitudes and tensions operating at the time. . . .

"If we accept the fact that the probation officer's work concerns itself with helping the man under supervision to bring to conscious expression his underlying emotional conflicts and thus rid these deep-seated unknown drives of their tension and potency, and if we recognize that the probationer's moral decisions must be his own, not the probation officer's, then is the generic problem of interpretation with which the probation officer is faced any different from that which must be met by the case worker?"<sup>20</sup>

Miss Genevieve Gabower, formerly Director of Social Work in the Juvenile Court, Washington, D. C., refers to case work in this way:

"The worker sees a need for giving service in the case of a child where either the solicitude or the indifference of the parents, or a combination of extremes of the two operates as a barrier to his growth and development. He can be of service by developing and maintaining a relationship of continuing interest and acceptance and thus assisting in establishing stability. Case work . . . through this kind of relationship . . . may operate as a medium through which the youth

can find that he has ability to conform to community standards."<sup>21</sup>

In other words, from Miss Gabower's point of view, the relationship which by some is described as case work is here presented only as an instrument of case work. But what case work is, is still not explained.

One thing is certain, however: the case work point of view represents a shift in emphasis from the social conditions of behavior to individual behavior itself, especially such behavior as can be approached from the standpoint of the "dynamics" of psychoanalytic mechanisms. The shift has been from a social to a clinical frame of reference. Crime and delinquency are acts containing social implications, but it is chiefly the individual personality which interests the case worker. Thus, Miss Louise McGuire, also one-time Director of Social Work in the Juvenile Court, Washington, D. C. states: "Back of the overt acts are the motives. These latter are our concern and the basis of case work treatment."<sup>22</sup>

Miss McGuire's article represents an attempt to delineate case work into three phases: (1) social inquiry into the total situation of the client; (2) social diagnosis, that is, inquiry into the relationships and attitudes of the client; and (3) social case work treatment. In this last phase there are three objectives: (1) to induce right notions of conduct (responsible behavior) in the client; (2) to induce motives which will assure loyalty to good norms of conduct; and (3) to develop the client's latent abilities.

To achieve these objectives case work treatment is divided into two sections: mechanistic devices, and deep therapy. The former consist in the utilization of the resources of community agencies. The latter, deep therapy, refers to the process of changing the attitudes of the probationer, giving him insight through interpretation.<sup>23</sup>

This essentially clinical approach is supported by most other writers outside the academic disciplines of criminology and sociology. Hagerty, for example, has said, "We offer as our major premise that solution of the crime problem involves chiefly the study and personality treatment of the individual

<sup>19</sup> Gabower, *Motivating the Delinquent to Accept Treatment*, YEARBOOK, NAT'L PROBATION AND PAROLE ASS'N 207-19 (1940).

<sup>20</sup> McGuire, *Essentials of Case Work with Delinquents*, YEARBOOK, NAT'L PROBATION AND PAROLE ASS'N (1935).

<sup>23</sup> *Ibid.*

<sup>19</sup> Taber, *The Value of Casework to the Probationer*, YEARBOOK, NAT'L PROBATION AND PAROLE ASS'N 167-79 (1940).

<sup>20</sup> Reeves, *Administrative Procedures and Case Work Services*, YEARBOOK, NAT'L PROBATION AND PAROLE ASS'N 180-92 (1940).

offender."<sup>24</sup> He goes on to define case work as an aid in the restoration of self-support and self-respect in the "client."

More recently Hyman S. Lippman, Director of the Amherst H. Wilder Child Guidance Clinic, St. Paul, Minnesota, has declared that case work on the part of the probation officer is the essential ingredient in his "treatment" of delinquency.<sup>25</sup> While not defining case work, Lippman does specify *relationship* as the major contribution of a probation officer and the interview as his main tool. The unconscious conflicts of the neurotic delinquent of course, "are deeply imbedded, and can *only* be brought to light by the psychiatrist trained in psychoanalytic techniques."<sup>26</sup> (Emphasis added.)

David Crystal, Executive Director, Jewish Social Service Bureau Rochester, N. Y., sees probation as a treatment process of the entire family. But the process is curiously enough still described in clinical terms as the focus of case work is:

- "1. How does the probation officer help the probationer accept the conditions of his current reality?
- "2. How does and can the family relate to the probationer in terms of the new experience?
  - (a) Can they express honestly their feelings of guilt, of anticipated reprisal, of uncertainty about the impact this will have on their future lives?
  - (b) Will they require special help from a worker other than the probation officer, in a different kind of agency in the community? Can they now or later accept the need for help?
  - (c) Is the total responsibility for change to be lodged exclusively on the offender, or can the family see change as a reaction not to one but multiple causes and that they too are part of the change, externally and internally, by their physical presence and concrete offering of shelter and food and job and by the attitude with which these visible and tangible things about the family are given?"<sup>27</sup>

Henry J. Palmieri, Director of Social Services of the Juvenile Court of the District of Columbia,

<sup>24</sup> Hagerty, *The Delinquent as a Case Problem*, YEARBOOK, NAT'L PROBATION AND PAROLE ASS'N (1935).

<sup>25</sup> LIPPMAN, *The Role of The Probation Officer in the Treatment of Delinquency in Children*, 12 FEDERAL PROBATION 36 (1948).

<sup>26</sup> *Id.* at 37.

<sup>27</sup> Crystal, *Family Casework in Probation*, 13 FEDERAL PROBATION 47-53 (1949).

declares probation is a casework service and a method of treatment which "is no longer an ideal" but "a reality."<sup>28</sup> However, he defines neither case-work nor treatment but assumes their identity with probation.

Glover outlines four basic principles of treatment without, however, specifying how they are effected: (1) treatment based on consent of the offender; (2) treatment planned for the individual; (3) treatment planned around the offender's own situation, and (4) treatment planned to redirect the offender's emotions.<sup>29</sup>

The strong clinical orientation of casework seeking to induce proper motives, to aid in the achievement of insight and self-respect, and to change attitudes of the offender may be worthwhile and desirable. But the aims and the orientation do not define the process of case work. *How* is insight produced? *How* are interpretations given? *How* are attitudes changed? *How* is relationship established? The answers to these questions are rarely mentioned in the literature, and casework continues to be defined in broad and general terms as for example, "an art in which knowledge of the science of human relations and skill in relationship are used to mobilize capacities in the individual and resources in the community appropriate for better adjustment between the client and all or any part of his total environment."<sup>30</sup>

One of the most recent and well-known texts defines casework as follows: "Social casework is a process used by certain human welfare agencies to help individuals to cope more effectively with their problems in social functioning."<sup>31</sup>

The elements, then, which are said to comprise the principles of casework invariably stamp it as a clinical process for the most part. It is often stated, for example, that casework implies that the probation officer has a respect for individual differences and that he should have not only a natural desire to serve others but also an understanding of the processes that develop personalities. The probation officer *accepts* and the client then may show "movement!" because for the first time he is seen

<sup>28</sup> Palmieri, *Probation Is Treatment*, 13 FEDERAL PROBATION 20 (1949).

<sup>29</sup> Glover, *Probation: The Art of Introducing the Probationer to a Better Way of Life*, 15 FEDERAL PROBATION 8 (1951).

<sup>30</sup> Bowers, *The Nature and Definition of Social Casework: Part III*, 30 J. SOC. CASEWORK 417 (1949).

<sup>31</sup> PERLMAN, *SOCIAL CASEWORK, A PROBLEM-SOLVING PROCESS* (Chicago, University of Chicago Press, 1957).

able to talk freely and naturally to another person about himself and how he feels. The worker understands and conveys that understanding to the "client," thereby relieving the "client's" anxieties and stimulating a more constructive outlook.

Biestek explains the casework relationship on the basis of seven needs of the client. "The caseworker is *sensitive* to, *understands*, and appropriately *responds* to these needs" and "the client is somehow *aware* of the caseworker's sensitivity, understanding and response."<sup>32</sup> The seven needs of the client embody corresponding principles:<sup>33</sup>

The Need of the Client	The Name of the Principle
1. To be treated as an individual.	1. Individualization.
2. To express feelings.	2. Purposeful expression of feelings.
3. To get sympathetic response to problems.	3. Controlled emotional involvement.
4. To be recognized as a person of worth.	4. Acceptance.
5. Not to be judged.	5. Nonjudgmental attitude.
6. To make his own choices and decisions.	6. Client self-determination.
7. To keep secrets about self.	7. Confidentiality.

Casework thus attempts to formalize, standardize and professionalize the display and exercise of warmth, sympathy, respect and understanding, all of which are considered to be basic elements in therapeutic treatment of the individual. In probation, also, any punitive quality in the process has been removed, and the goal has become not merely the elimination of the probationer's anti-social conduct but, whenever possible, the improvement of his personality and the achievement of a more nearly perfect total adjustment. What probation is, therefore, must include the means by which those goals are realized. This casework usually does by simply stating casework *as* the means or process. There have been attempts at clarification, but the field defies synthesis.

Miss Witmer has pointed out that:

"... social work is a very specific system of organized activities based on a body of values and technical rules which are becoming increasingly well-formulated. . . . it has a definite function to perform. It is not a vague, indeter-

minate method of doing good or promoting welfare, or even of helping people out of trouble, indistinguishable from psychiatry at one end and uplift work at the other. . . .

"... social case work centers around helping individuals with the difficulties they encounter in a particular group relationship. . . ."<sup>34</sup>

Miss Witmer also suggests that while probation presently involves the use of case work, it is mainly executive and diagnostic, centering on changes in the environment of the offender. Such case work "lacks the sharpness of focus and precision of method which perception of specific function has given to case work in other fields."<sup>35</sup> But in my experience, at least, this "sharpness of focus and precision of method" of casework in other fields is more an attribute of casework in the literature than of casework in the field. What is specific and precise in any other agency is not mentioned. It appears that it is the field or area of operation of these other agencies that is more or less precise and not necessarily their techniques.

Miss Witmer denies the similarity of case work and psychiatry or therapy but nevertheless states its aims in therapeutic terms: "Modern case work works with the client rather than on his behalf" since the sources of difficulty are supposedly known only to the "client."<sup>36</sup> However, the case worker assumes the existence of underlying or unconscious conflicts and so is practically committed to a psychotherapeutic point of view. Where this is denied, superficial distinctions are usually drawn between case work and therapy, such as the fact that in therapy it is the "client" himself who seeks the therapist, or that in therapy one delves more deeply into the Unconscious and there is a more intense emotional involvement of "client" and therapist. There is convincing evidence, however, that points to the emergence of case work, and certainly of psychiatric social work, as another therapeutic profession.

The dominant theoretical note in case work is sounded by psychoanalysis. Acceptance of a psychoanalytic view will, of course, influence notions of what makes a criminal a criminal or a delinquent a delinquent. The major assumptions fall back on the emotional problems of the individual offender; consequently, illegal behavior is seen primarily as

<sup>34</sup> Witmer, *Social Case Work in the Field of Juvenile Probation*, YEARBOOK, NAT'L PROBATION AND PAROLE ASS'N 153-66 (1941).

<sup>35</sup> *Ibid.*

<sup>36</sup> *Ibid.*

<sup>32</sup> BIESTEK, *THE CASEWORK RELATIONSHIP* 17 (Chicago, Loyola University Press, 1957).

<sup>33</sup> Reproduced from BIESTEK, *op. cit. supra* note 32, at 17.



a symptom of an emotional illness, and the offense itself is not considered to be very important, especially in delinquency. Parallel with this assumption, which is accepted by many case workers as a sound and accurate summary of the facts, is the habit of looking for emotional problems in all cases before the court. This ignores the real possibility that many of the problems of offenders arise from the hazards common to all people in learning to live with themselves and others. Also, to most people, appearing before a court of law is a new experience. When a person has not had time to cope with such a new situation, it is conceivable that he may present the appearance of maladjustment. In any event, life is such that most, if not all, people have emotional and other problems, and whether or not they are offenders, they generally adjust without services based on any nebulous clinical ideology.

Casework must be numbered among the victims of much of the epidemic dogma and naïveté that is psychoanalysis. Too many correctional workers have become dizzy on a diluted psychoanalytic approach. They allow its glib and fanciful formulations to explain difficult problems. It is all neatly done, since little thought and no proof are necessary. Ready-made proof exists: whatever the problem, it is the result of emotional conflicts originating in the oral, anal, phallic and other erotic stages of development, and the dynamic interplay of id, ego and superego. The criminal and the delinquent, too, as each and all of us, end up as the appendage to the penis. It is the tail that twirls the tiger.

As matters now stand the probation officer or case worker grounded in a psychoanalytic approach tends to look at a case through the lenses of his "trained" preconceptions of the client's emotional life. He is likely, therefore to ignore the group processes from which that emotional life is nourished. Obeisance and abject devotion to the illusory and presumptuous claim of psychoanalytic theory to absolute knowledge of the dynamics of human behavior may lead to a great deal of dialectical ingenuity but not to much progress in the treatment of the problem of crime and delinquency.

In conclusion, probation as case work concentrates not so much on crime and delinquency as on criminals and delinquents, and not so much on criminals and delinquents as on criminals and delinquents with emotional problems. In general, as

Sutherland has pointed out,<sup>37</sup> case work in probation follows psychiatric conceptions in that insight by the probationer into the reasons for his behavior is the chief goal of treatment. A person with such insight is felt to be unlikely to repeat his delinquent activities. The primary method consists of intensive interviews through which the probation officer not only comes to understand the probationer but the probationer, to understand himself. An identification with the probation officer then helps the offender emulate his behavior until finally the point is reached where the probationer becomes independent of this identification and can carry on normal and socially acceptable behavior on his own.

#### *Probation as a combination of case work and administration*

This point of view regarding probation does not, as it might suggest, constitute a catch-all for those approaches which do not fit the categories discussed thus far. From this standpoint probation is represented both by case work functions and by administrative or executive procedures. Where case work is paramount, administrative functions are supplementary. Where administrative duties are indicated as the primary plan of approach, case work skills and techniques, however defined, must be utilized in the performance of those duties. In other words, some cases may be felt to require intensive interviews more than anything else. But in the course of most cases there are, practically without exception, other things to be done as well: arranging a transfer of schools, scheduling medical and other appointments, and so on. Other cases may be felt to call for mainly administrative functions, such as those just mentioned, plus limited and superficial contacts with the probationers. But in performing those functions and in making those contacts a case work approach must be applied. In this respect the utilization of case work techniques is usually manifested in the attitude taken toward the probationer.

Murphy illustrates this school of thought:

"Probation officers have another task, that of controlling, guiding and rehabilitating probationers. Here they are called upon to make accurate personality diagnoses and plan comprehensively to improve the probationers' environ-

<sup>37</sup> SUTHERLAND, PRINCIPLES OF CRIMINOLOGY 399-400 (Philadelphia, J. B. Lippincott Co., 4th ed., 1947).

ment and economic life, to adjust delicate family problems, find employment, provide for necessary medical treatment and health assistance, determine recreational needs and social needs, stimulate spiritual and moral improvement. . . . Patterns of behavior can be changed only when attitudes, loyalties and group relationships can be altered or recreated."<sup>33</sup>

In summary, then, this point of view sees probation as the simultaneous application of case work and administrative functions, but in specific cases it is more one than the other. Whichever is paramount in any particular case, the other is complementary. About twenty per cent of the literature reviewed supports this approach to probation.

#### WHAT IS PROBATION?

With the exception of the first three categories (legal, punitive, merciful), all views emphasize the treatment aspects of probation. In the literature reviewed only five per cent of the writers thought of probation wholly as a legal disposition or as a measure of either punishment or leniency. In fact, in the literature of the past thirty years such views receive no mention at all. Therefore, notions of probation as either case work or administration, or a combination of the two, are prominent. These leading approaches overlap considerably so that their differentiation consists almost solely in their respective points of emphasis. Thus, all three would agree that probation is a legal disposition and that probation is not to be thought of as mere leniency or as mere punishment; but in the first instance, it is viewed as basically case work treatment; in the second, administrative supervision; and in the third, both of these. Each, however, contains elements of the other. So in all cases probation is seen as a social as well as a legal process, as a method of supervision and guidance in which all available community resources are used, and as a process which should aim at the total adjustment of the offender. The case work approach overshadows the rest by far, so that in phrasing a composite definition derived from the literature it should receive its obvious prominence.

As culled from the professional literature, then, probation may be thought of as the application of modern, scientific case work to specially selected

offenders<sup>39</sup> who are placed by the courts under the personal supervision of a probation officer, sometimes under conditional suspension of punishment, and given treatment aimed at their complete and permanent social rehabilitation.

#### *Probation in reality*

What is depicted in the literature does not often represent a very real or accurate representation of what exists in reality. The result of abject worship at the holy shrine of psychoanalysis has not been the development of scientifically validated techniques for the treatment of offenders on probation.<sup>40</sup> In fact, few probation officers, either in the literature or in the field, give a clear and specific description of what they mean by treatment, case work or otherwise. Probation officers, whether trained in schools of social work or not, frequently express the opinion that just about anything that is done in the way of investigation of cases, bringing into play any of the skills one may have acquired in training or by his experiences, comes under the heading of case work treatment. This would include any service, advice, counseling or surveillance.

Undoubtedly part of the difficulty lies in the fact that the field of social work seems to have no well-defined and consistent theory which it can call its own. Casework can mean anything from "working with an offender" to helping a "client" to "grow" or to achieve insight, helping him to help himself, a form of therapy, or a "method which recognizes the individual's inner capacity as to the key to his adjustment, and the necessity of his participating in the process of rehabilitation."<sup>41</sup>

How these things are accomplished, however, is rarely specified except in terms of an *administrative* process. So the probation officer will be told, ideally, that he must have a plan of treatment, that his attitude toward the offender must be non-punitive, and that he will try to "win the confidence" of the probationer and overcome the resistance of parents, or of husband or wife, as the case may be. The constructive kind of relationship that

<sup>39</sup> It is standard practice to accept for probation only those offenders whose cases have been investigated and found to meet the requirements of favorable prognosis set up by the individual courts. Therefore, offenders placed on probation may be thought of as specially selected.

<sup>40</sup> See Cressey, *The Nature and Effectiveness of Correctional Techniques*, 23 LAW & CONTEMP. PROB. 754-71 (1958).

<sup>41</sup> Taber, *op. cit. supra* note 19.

<sup>33</sup> Murphy, *Training For and On the Job*, YEARBOOK, NAT'L PROBATION AND PAROLE ASS'N 93-108 (1938).

the probation officer thus aims for apparently is to be gained through frequent and periodic contacts at the office of the probation officer or at the offender's home or even school, in the case of a juvenile. In addition, the probation officer will be acquainted with most, if not all, of the resources of the community and will hold frequent conferences with the offender's employer, school principal, teacher or school social worker and refer the offender to any one of a number of other agencies which might help him on his road to readjustment.

It is interesting, then, to compare such a description of probation as case work treatment with what probation officers actually do. At the Juvenile Court of Allegheny County in Pittsburgh, Pennsylvania, it was found that more than half the probation officers did active work with only thirty to forty per cent of their caseload. Even if telephone conversations and correspondence with an offender, members of his family, and others are counted as contacts, sixty-four per cent of the staff had fewer than six contacts with a child over a period of one year.<sup>42</sup> As a matter of fact more than half the probation officers considered that the most important part of their work consisted of their contacts with a child and others during the investigation period prior to the hearing.

Half of the probation officers reported they did no planning on *any* of their cases, one-fourth indicated that they approached from five to ten per cent of their caseload with a plan in mind, and the

<sup>42</sup> All the figures and information in this section were obtained from the Juvenile Court, Pittsburgh, Pa., in 1951, when the author was a probation officer of the court.

remaining fourth said this was true in forty to fifty per cent of their cases. Thirty-five per cent of the probation staff felt that many of the children under their supervision at any one time could probably get along *without any* probation service at all, and ninety-five per cent felt that some of the children under their supervision could adjust without it.

Analysis of a sample of 540 probation records for this court (up to 1951) showed that the total number of personal contacts with each probationer averaged less than five in an average probation period of 16½ months. In other words, each probationer generally got to see his probation officer about once every three months. Only six per cent received more than five visits at home during the probation period, and nearly 84 per cent received only *one* home visit. Similarly, 78 per cent of the probationers had but one interview in the probation office during the average probation period of 16½ months. Yet the number of delinquents on probation who later became criminals was less among those who had the *fewest* contacts with their probation officers. Since the majority of the delinquents received a minimum of attention while they were on probation and yet did not later become criminals (as of ten years later), this apparent adjustment must be attributed to factors other than treatment received on probation.

Supervision in 76 per cent of the cases consisted *entirely* of routine reporting, and only ten per cent of the cases were handled with a definite plan of treatment. How it could be otherwise would be difficult to conceive after a glance at the duties of the probation officers of this court:

Duties		Details
Pre-hearing Investigations.	Average five per week, consuming about ⅔ of probation officer's time.	Get statements from: complainants, offender, offender's mother and father, and any other interested party. Compile personal history of offender. Describe offender's environment—home visit. Get reports from school, other agencies active, past or present, with offender or family. Arrange for physical examination of offender.
Prepare report for judge.		Dictation
Conference with supervisor.		Diagnose behavior and personality of offender. Plan of treatment, if any.
Prepare case summaries for psychologist, psychiatrist, other agencies, institutions. Arrange institutional, foster home placement.	Involves about 20% of cases.	Correspondence Phone calls

Duties	Details
Make appointments for testing, clothing issue, medical care, etc.	
Release assigned cases from detention home.	
Presentation of cases in court.	One day per week set aside for this. Notify by letter all persons to appear; file petitions; prepare old cases continued and those reappearing on new charges.

The duties outlined above take, on an average, from three and one-half to four and one-half days of a five-day week. The time remaining *may* then be devoted to supervising offenders placed on probation, *i.e.*, checking on their activities either by conducting personal interviews or by having the probationer and his parents fill out forms sent by mail; getting progress reports from school or place of employment or institution; and helping the offender get employment, club membership, and so on.

To what extent such a system as this applies to other courts, I cannot say, except for the dozen or so with which I am personally familiar and among which, for the most part, a similar situation exists. As late as 1957 members of the staff of the juvenile court in Pittsburgh, Pennsylvania, informed me that the situation at that time remained the same as presented here. The Family Court of the State of Delaware is one exception. The counselors of that court prepare no pre-hearing or pre-sentence reports as such, nor do they usually appear in court at the initial hearing. On the contrary, the judges refer cases which they continue for ninety days to members of the probation staff for counseling. The results of the counseling then help the judges make a final disposition at the end of the ninety day period.

However, even with such a procedure the offender who is referred to the staff receives, on the average, one-half hour per week of counseling, or a total of six hours for the ninety day period.

Returning to the juvenile court in Pittsburgh, Pennsylvania, it is significant that only fourteen percent of probationers in the sample studied received what their probation officers called case work treatment. A comparison of the results of their work with those of the officers not qualified for case work showed no difference in the recidivism rates of their charges. It is also interesting to note that in the two courts with which I have been associated the probationers who were referred to psychiatrists for treatment had the highest recidivism rate of all!

It is fairly certain that most probation, however it may be conceived in the literature or in the field, still amounts to little more than administrative supervision. But in order to compare the views of the professional personnel represented in the literature with the views of those whose work actually determines what is probation, I asked twenty of the most experienced probation officers from eight courts, including officers both trained and not trained in schools of social work, to write me their answers to the following questions:

1. How would you define probation? Generally speaking, of what does it consist in practice?
2. Is case work an essential part of probation? If so, how would you define case work?
3. What are the aims of probation?
4. What do you believe probation *should* be ideally?

The following are the verbatim replies to question (1) which I received

1. "Probation is a kind of status the child obtains as a result of the court hearing."
2. "Probation is a suspended sentence to begin with, as a basis for providing supervision. In practice it is a continuation of a suspended case, to see if the child does all right. There is no intention of doing anything, though most probation officers won't admit it. Probation is putting a threat over the head of a child. Authority puts weight back of probation. You can see this with our success with neglected and delinquent cases which other agencies have given up. We're the policemen back of the agencies."
3. "What it simmers down to is police work. There is no planning, but giving supervision to prevent violations or repetition of delinquent behavior."
4. "Probation is an instrument of the court. The child is under the jurisdiction of the court. There are certain areas in which he is expected to function in a certain way. This consists of periodic reports made by the youngster or his family to the probation

- officer, or the probation officer's contacts with the family and the child, or any collateral contacts, the purpose of the contacts being to determine the child's ability to adjust in the community and to offer additional assistance in a supportive way to help the child adjust."
5. "Probation is to help instill in a boy enough confidence in himself to make an adjustment in society, with the knowledge that he can always call on the probation officer for information and advice when needed."
  6. "Probation consists of the contacts which a probation officer has with a boy after the court hearing. It is also supervision to see how the boy adjusts in the home and the community. Through probation we try to select what boys have to abide by and to explain to them the negative and the positive sides of a situation, explaining limitations and the need to face them."
  7. "Probation means that the court feels that whatever a child has done he can adjust at home under the supervision of his parents. We look the parents and the home over and decide whether they can handle the supervision. The probation officer merely gives support to that supervision, like a doctor who prescribes. He isn't going to go to your home and make you take the medicine, but if he feels the patient needs to go to the hospital, he goes."
  8. "Probation is comparable to commitment; that is, it is handled through a court order. But it is not leniency. Probation can be as severe as commitment. Probation is not only law but also a mutual relationship in which we are trying to get children to accept limits."
  9. "Probation is a period of time during which a child is expected to realize he has made a mistake and that he must be careful to avoid repetition while he is on probation. This realization may or may not be with the help of the probation officer."
  10. "Probation is using the material brought out by investigation, the causes as well as the effects of antisocial or asocial behavior on the part of delinquents brought to the court. It is taking that and trying to determine from it the particular mores or standards that have been operating in the growing period of the delinquent and trying to arrive at standards or mores which will fit that child and his family and be satisfactory to society, and using all these in a plan thought best in terms of adjustment.
- "Probation is not something which comes after the court hearing. When a child becomes known to us, he is thought of as being on probation. There is no reason to wait for the hearing. We try to work with a child as soon as we get him. Finally, probation can only be successful if the basic family make-up is considered. What caused a child to be delinquent must be changed."
11. "Primarily we are a court of rehabilitation when it comes to the delinquent. When we put a child on probation we are saying to him, 'You have run afoul of the rules of society and this is the court's offer to you to try to prove you can live in society without continuing that type of behavior.' It is not only probation on the part of the child but also on the part of the parents, because adult behavior often lies behind a child's behavior. The child has to show he no longer needs supervision other than his own family."
  12. "Probation has a Latin derivation and means the act or process of giving a chance or trial. It is comparable to repairing damage done to an automobile. You repair it and give it another trial rather than let it run in its poor condition."
  13. "Probation is the period after a child has been brought to the court's attention as a result of a behavior problem. During this period there is an opportunity to see whether, with the help of the worker, his attitudes and activities can be reorganized so that he can make a better adjustment and conduct himself in a more acceptable manner.  
"It is a two-way thing. It is not just a period. The child must have someone interested in him, to guide him. Interviews with him may be of a general nature or be related to his specific behavior."
  14. "Probation is working with a child and his family on the problems presented at the court hearing. For the worker it is almost the role of confidant and adviser."
  15. "Probation is a helping service to a person with a problem. The problem itself may be adjusted or the person is helped to make an

adjustment to the problem. Probation is also a means of keeping in touch with a person in order to prevent further difficulty."

16. "Probation has its legal aspects. But it is also helping a child adjust to society and its requirements, which is the chief aim of probation. It should be a constructive experience."
17. "Probation is helping a child fit into the school, home and community, fitting him into their standards."
18. "In practice probation consists in meeting emergencies as they arise instead of routine treatment, which time doesn't allow."
19. "When a child comes to the court and a problem is presented, you are not putting him on probation for punishment but to find causes and remedies. Probation means not only working with a child but also considering all the surrounding factors."
20. "Probation is helping the individual to adjust. You utilize your own skills and the community resources within the scope and functions of the agency."

Only one of the above statements mentions the idea that punishment is even an aspect of probation, and the concept of leniency is omitted by all twenty probation officers, though it is implied by some. Four offer a partly legal definition, while none specifically presents the view that probation is essentially either an administrative process or a combination of administrative and case work. Partly this may be attributed to the fact that most personnel in the field probably do not express themselves in the same way as do professional authors and teachers. In this respect perhaps the most significant thing of all is the fact that, although certain clichés appear, *in not one definition is case work itself mentioned*. Yet in reply to the second question, "Is case work an essential part of probation?", fourteen probation officers gave an unqualified *yes*. Five of the others felt case work was essential to probation but limited time precluded its use. Only one answered *no*.

Definitions of case work itself were even more general and vague than the definitions of probation. The explanation which was offered most contained such phrases as "helping people to help themselves," "helping a person make an adjustment," "changing a person's attitudes," "establishing a mutual relationship," "working with a person," and "the ability to work with people."

Sixteen of the twenty responses fell into such a classification. Two probation officers felt probation *is* case work and that the definition of case work is about the same as the definition of probation. The remaining two expressed the opinion that almost anything that is done in the way of investigation of cases can be thought of as case work.

Obviously there is no consensus or standardization of opinion concerning probation among these twenty experienced workers, nor have they any clear conception of what case work is. I suspect such a situation is general.

When the aims of probation were considered, half the probation officers said the "total adjustment" of the offender was the chief goal. Five believed "complete rehabilitation" was the end pursued, and four thought that adjustment with respect to the particular problem presented was the purpose of probation. Only one officer stated that supervision alone was the real aim of probation. If the two terms "total adjustment" and "complete rehabilitation" are considered synonymous for all practical purposes, then fifteen of the twenty probation officers concurred on this, the highest goal of probation.

With respect to what probation *should* be, thirteen probation officers felt probation should consist of case work treatment. The remaining seven believed case work is not a general process and therefore should be applied only to those cases which indicate a need for that type of treatment. (Yet in answer to the second question all but one believed case work *is* essential to probation.)

It may well be that few correctional personnel are really aware of whatever techniques they use, and it is very highly probable that only a small percentage of the total are qualified case workers. It is also highly probable, and certainly seems to be the case from this writer's experience, that the image that many probation officers have of themselves is a picture of a warm and understanding though objective person, a kind of watered-down or embryonic clinician. In any event the influence of a clinical, case work ideology, along with its confused and contradictory elements, has been pervasive. Convention papers, the literature and supervisors are filled with this ideology, so that it is constantly before the probation officer. It is no more than could be expected, then, if the probation officer feels that whatever he does and however he does it, *it is* treatment.

## CONCLUSION

A review of the literature reveals the predominance of the view that probation is a process of case work treatment, and this point of view seems to be shared by probation personnel in the field. However, case work is usually described in general, vague and nebulous language characterized by an abundance of clichés and a lack of clarity and specificity.

Seen from an operational point of view probation appears to be quite different from its ideal, case work conceptions. Probation varies from rare instances of intensive individual treatment, however defined, to simply non-commitment.

Actually, then, probation may be defined as a legal disposition which allows the offender his usual freedom during a period in which he is expected to refrain from unlawful behavior. Operationally, probation is primarily a process of verifying the behavior of an offender (1) through periodic reports of the offender and members of his family to the probation officer and (2) by the incidence or absence of adverse reports from the police and other agencies. *Secondarily*, probation is a process of guiding and directing the behavior of an offender by means of intensive interviewing utilizing ill-defined case work techniques.

Finally, it can be said that probation in practice is a gesture toward conformity to the school of thought which combines administrative and case work procedures. For the most part, however, probation remains an administrative function with the statement Healy and Bronner made thirty-four years ago still quite accurate: "probation is a term that gives no clue to what is done by way of treatment."<sup>43</sup>

*Beyond the clinical horizon*

Current conceptions of the causation, prevention, and treatment of crime and delinquency center almost exclusively on the offender himself, in spite of the fact that, logically, the offender himself is only part of the problem. Most contemporary thinking is based upon observations made only under certain highly selective conditions—in courts, institutions and schools. Behavior related to other less accessible, though perhaps more important situations—for example, family behavior, behavior in the gang, in the play group, and

<sup>43</sup> HEALY & BRONNER, *DELINQUENTS AND CRIMINALS, THEIR MAKING AND UNMAKING* 82 (N.Y., The Mac-Millan Co., 1926).

an analysis of the societal setting of such behavior—are relegated to an academic and professional purgatory in the current craze and obsession with psychodynamics. Whatever the merits of psychodynamics, the picture remains unbalanced. Correctional workers and litterateurs have an obligation to examine *and question* the basic assumptions of a psychoanalytically ridden and prejudiced clinical profession. They ought to consider, for example, whether the social system itself should be investigated as a basic variable in anti-social behavior and whether the correctional workers should become active in promoting fundamental social reform or reorganization. These and other pertinent questions are largely ignored and most likely will continue to be ignored so long as those in corrections are held in an apparently hypnotic grip of obsession with behavior problems and psychodynamics.

The theories which have dominated, and continue to dominate, practitioners are psychiatric in origin. Insight by the probationer into the reasons for his behavior is the major goal of treatment. A person with such insight is considered to be unlikely to repeat his deviant behavior as he becomes independent of his identification with the probation officer. At that point, supposedly, the offender can carry on normal and socially acceptable behavior on his own.

Concerning the nature and causes of delinquent behavior, most case work concepts include assumptions involving emotional tensions which result in maladjustment. However, the resolution of the inner conflicts which generate such tensions offers no guarantee of relief from criminality. Neither does the existence of such tensions invariably lead to criminal or delinquent behavior.

Despite an apparently increasing emphasis in psychiatry upon group processes in treating individual cases, the focus still remains the resolution of the individual's disorder or conflicts. As yet there exists no theory or technique for treating the *group* relationships of the individual. The New York City Youth Board's Street Club Project is a step in that direction but with the disadvantage, perhaps, of channeling the energies of gang members into strictly middle-class pursuits. There is also an underlying assumption that *all* members of the individual's relevant group need treatment or assistance.

The conclusion must be that an exclusively clinical approach to the criminality of behavior,

relying as it does on the dynamics of intrapsychic phenomena, will continue to yield disappointing results. So, too, will any approach favoring a group etiology if it fails to make the basis of its approach an appraisal of the total society.

The clinical approach of psychiatry and case work views the individual offender, or his behavior, as abnormal when in fact such behavior may accurately reflect the character of group life. Given certain particular patterns of life, criminal and delinquent behavior may be the type of adjustment to those patterns one would expect.

It may be the character of our societal organization itself that produces personalities which cannot assume responsible attitudes.<sup>44</sup> And such personalities need not take shape only as criminals and delinquents but may be reflected in other types of irresponsibility of which the law takes little or no notice. In fact the more perverse and dangerous forms of personality deviation symbolized by aggression and an irrepressible urge to dominate others are those which reach their ultimate forms of expression *within* the existing institutional structure. Since positions of power attract such aggressive and egocentric types, we often view the spectacle of criminals prosecuting criminals! It is a matter of what types of anti-social or abnormal behavior the society will tolerate. Excesses of power and avarice are in conformity with our standards if displayed by those on the way up, or by those already there. It might be profitable, or at least interesting, to put some promising doctoral candidate on the track of executives in business, labor, religion and government, and of professional case workers, psychiatrists and psychoanalysts. How do they compare in personality and background with our delinquents and criminals? In many cases I should venture to guess that the similarities would be remarkable indeed!

The problems we face today, in this and in other fields, may be the result of a number of factors which we will never be able to put together into a meaningful theory. We must try at any rate. We may start at almost any point, perhaps with the observation that many of the individual's functions in life have been passed onto the state. The modern American is materially relatively secure, but he is personally insecure and anxious. With the tremendous ballooning of authority, he has

been compelled to submit to a complex form of institutional control, and he finds many of his once acceptable outlets for aggression effectively taken away. His is a situation of maximum stimulation of aggressive drives and minimum outlet for their expression. Such a condition deprives individual energies of much constructive force. On the contrary, our contemporary condition intensifies anxiety, enhances the development of dominant attitudes which are themselves abnormal and irrational, and encourages individually irresponsible behavior which may nonetheless be socially acceptable. For in America there is no organized protest against an asocial condition. Instead there are orgies of random activities, of lust for sex and payola, of ambitions tuned to success, the special talent, as someone put it, of those who have no talent, or of crime—all manifestations of boundless energy, but with no real power within.

The American character is essentially egotistical and asocial, ever striving to find its own peculiar niche, a spot which, in the end, may prove to be inimical to his very nature. His social relations are fluid and formless. No one is more addicted to the concept "community" and yet so indifferent to it in reality, no one so willing and ready to separate himself from every social mooring, to run wherever the fortunes of dollars and status happen to drag him. Freedom in America is the right to break away. And when he is not climbing up in society, or running away from it, he is taking the criminal's path of running straight into it. The tantalizing promises of success are still held out to him, his appetites keyed up to the breaking point by the hucksters' din, only to be disappointed and disillusioned by the stark realities. Crime may often be his revenge for the dashing of hopes, promises and ambitions bred from and nourished in a criminal philosophy of life.

The American temperament is a criminal temperament sprung from an undisciplined individualism. The exaltation, the deification of success selects those who can manipulate, "put one over" on someone, who can circumvent the law, who can literally "get away with murder."

The American temper also continues to persist in the illusion of classlessness so that social energy among us is wasted either in aimless, diffuse, excess sociability or, with no social ideal or movement to give conscious direction to our frustrations and discontents, in anti-social behavior. Rather than becoming socially conscious or revolutionary, we

<sup>44</sup> COMFORT, AUTHORITY AND DELINQUENCY IN THE MODERN STATE (London, Routledge and Kegan Paul, 1950).



become Masons or criminals. This inability to identify oneself consistently with one's particular class results in a sociological dualism that casts doubt in one's own mind as to what he really is and disrupts the achievement of balance and stability of character. The conflict deepens, too, when, unaware of his fundamental class relationship to his society, he feels drawn to it directly. But that society, dedicated to a bourgeois existence, has never been imbued with and has never produced a real spirit of solidarity among its people. It has produced little that is socially substantial; it has produced only a philosophy of every man for himself.

But the clinician will, I suspect, for some time to come continue to see the anti-social man as a sick man. He will urge more and better clinics and more and better trained case workers, psychologists and psychiatrists. It would be worthwhile to investigate to what extent the clinical professions attract people with a basic impulse to direct and control the lives of others. It is certainly not improbable that, in many cases, the therapist or counselor gains a great deal more in ego support from the therapeutic situation than does the patient! In fact, what has been said above may apply to clinical personnel in whom hostility and the compulsion to dominate others may appear as the other side of the coin. And the remainder of us will probably continue to rely on the very institutions which threaten to, or already have, eclipsed the possibility of much more enlightenment. It may be time to look to extra-institutional means by which individual behavior may be rationally developed and controlled, for institutions alone, I suspect, have not all the power we have attributed to them. In any event, in the final analysis, as Comfort has said, "... a statement of the desirable pattern of individual conduct makes nonsense without an extension of the description to cover the type of society in which such conduct is possible."<sup>45</sup>

Social scientists apparently fear the prospect of viewing their fields in political terms. But if the institutional ethics of power are not examined and attacked, if need be; if, instead of disentangling ourselves from the decayed and decaying elements of our society we, on the contrary, continue to identify with them and invest our future in their fortunes, then our prospects are dark indeed.

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