

HARPER'S MODERN SCIENCE SERIES

# THE OFFENDER

AND HIS RELATIONS TO LAW  
AND SOCIETY

BY

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ILLUSTRATED



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**THE OFFENDER**

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**C-R**

TO  
MY WIFE  
MY BEST AND FAIREST CRITIC  
THIS BOOK IS DEDICATED

## INTRODUCTION

How are we to deal with the offender? There are those who are able to understand but a single phase of the problem and who accordingly hold to a single remedy as a cure-all. According to their respective points of view they urge the redrafting of penal laws, or the reorganization of courts, or the abolition of grand juries, or the elimination of the shortcomings of the police, or the reorganization of prisons, or the introduction of socialism and phases of communism, or the sterilization of idiots and of the feeble-minded, or improvements in religious, in educational, in recreational, and in health work.

It is certain, however, that the problem cannot be solved merely by changes in a single governmental institution, nor by the improvement of social conditions, nor by the adoption of certain expedients. The gradual and steady improvement of all social conditions and of all social and governmental institutions, and the gradual elimination of conditions which impede progress are the only sure bases of future progress.

We should recognize at once that there are not a sufficient number of criminals to challenge successfully the socializing forces of modern society. Criminals now number, and in the past have numbered, only about 2 per cent. of the total population. If they

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constituted 20 or 30 per cent. of the total population, or if they were rapidly increasing in number the problem would seem very much more serious.

There is apparently no one single cause of delinquency. Many causes contribute to delinquency and many forces work together to prevent the development of the delinquent or to effect his rehabilitation as a self-supporting, self-controlled member of society.

There is no one method of treating the offender in order to effect his rehabilitation. Changes in social and governmental organizations and industrial organization profoundly affect the delinquent. Some changes tend to eliminate him, while others create new crimes and offenses, and as a consequence, new classes of or an additional number of offenders.

Some students have already noted the small percentage of old men and old women among delinquents, and the large number of those under thirty years of age. Some hold that this proves that crime is the result of misdirected adolescent energies and that excessive energy is wiped out by advancing years. Others hold that the criminal dies young. The whole truth is not yet known. Our studies have not been carried far enough. The adolescent period and the years following adolescence are productive of a great deal of social disorder. The death rate among offenders is very high and many of them perish before they are forty. Careful and extended investigation will in the future reveal to what extent adolescence operates to encourage criminal tendencies and how far maturity and early death operate to eliminate the offender.

Commendable progress has been made in eliminating the offender and in effecting his rehabilitation through

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well-thought-out plans. We are beginning to treat the offender in much the same way as we treat the insane. The treatment of the insane was somewhat similar to our recent treatment of the delinquent. Originally the insane were treated as if they were possessed of demons. Finally, special treatment was provided, and special institutions were established to care for such afflicted persons, with the result that 20 to 30 per cent. of those committed to the best hospitals for the insane are either released as cured or may be safely released under the supervision of friends or relatives. The modern tendency is to treat the delinquent in much the same way. The best practice calls for a careful diagnosis of the case of each offender and directs that treatment based upon such investigation should then be provided. This treatment need not necessarily be medical in character. Sometimes it should be careful supervision of ordinary personal habits until good habits are substituted for bad habits.

We now know that commitment to prison should be made where it is not in the interest of the individual or of society to release the convicted offender under supervision.

In formulating different methods of handling the individual delinquent we have learned that old methods should be utilized as long as they are really serviceable, and should not be discarded merely because they are old. The wisest leaders agree that new methods should be carefully tested before they are adopted generally, because experience has demonstrated that there was much good reason for the adoption of the old methods and policies which the inexperienced seldom appreciate.

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No single plan of administration or single type of government and discipline should be adopted for all classes of offenders in the same institution, or in different institutions. The human equation must be recognized and differentiation must be made accordingly.

I have attempted to deal with the problem of the offender from a practical standpoint; that is, from the standpoint of one responsible for the daily administration of a large department, which has been created to deal with certain phases of the correctional problem in the largest city in the world. This experience has demonstrated the necessity for cooperation between the different governmental and private agencies, so that the correction department may be able to function to the best advantage. I have found it necessary, in my own work, to refer to historical origins and to old methods of treatment in order to understand differences between existing methods and policies and those which have partly superseded them.

In order to administer intelligently this large department, I have also found it necessary to proceed carefully and to experiment widely before effecting a departure from well-known methods of treatment.

In the following pages will be found the results of my study and of my experience. I have attempted to point out how the correctional system of a State should be developed, and from what point of view its various correctional institutions should be managed. There are chapters dealing with the court, with the different systems of classification, with probation and parole, with the clearing-house laboratory for scientific investigation, with the indeterminate and the definite

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sentence, with autocratic government and discipline and other systems of government, including the so-called modern self-government system, with institutional organization and treatment, with prison labor, with industrial training, with details of institutional management, and with institutional procedure.

I do not feel that I have in any way exhausted the subject. I have attempted to formulate suggestions and methods of handling the delinquent which I hope will prove of some practical value to students, judges, lawyers, institutional managers, institutional officers, boards of control, and other, governmental agencies which have either to provide new facilities or to operate existing facilities dealing with the delinquent.

It has seemed to me that a method of treating the individual offender may be adopted which may at the same time furnish information upon which the city or the State should base its crime-prevention program. There has been much discussion of metaphysical phases of the subject, but very little has been done to learn the facts with respect to the delinquent and his environment. These facts when they are developed will prove of great importance in preventing the development of crime and of the different kinds of lesser offenses, if they are used in proper manner.

How these facts may be developed I have attempted to indicate in Part I of this book. In the second part I have given consideration to those fundamental social forces upon which, in my judgment, we must depend in order to check the development of the offender. Among the most important of these are the home, the church, the school, health and sanitation, and the police. In order to prevent the growth of the offender,



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society must depend upon forces or agencies such as these to eliminate those conditions which permit individuals to drift into a life of crime. The information collected while dealing with the delinquent, as suggested in Part I, should be utilized by the forces outlined in Part II in order to improve the character of their work. In short, all the forces of law and of order and of social development should be utilized to the fullest extent and in harmonious co-operation as far as possible.

Treatment of symptoms should not be allowed to crowd out the study of causes, as the study of causes will help prevent the development of the offender. The treatment of symptoms may, it is true, help check or curb criminal activities, but such treatment is hardly sufficient to prevent the growth of abnormal traits which may, if not properly handled, develop into criminal acts. Prevention through a study of conditions, and through the encouragement of normal growth and development, is of primary significance.

BURDETTE G. LEWIS.

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**Part I**  
**SOCIETY AND THE OFFENDER**





# THE OFFENDER

## I

### DIFFERENT VIEWPOINTS

**Why the Offender?** The offender, like the poor, is always with us. Through all ages he has been society's problem, civilization's enigma. Why should he persist? Is he civilization's spoiled child, who makes sport of nature, or is he a broken reed caught up and crushed by the mills which the gods grind? Does he prove that mankind is not advancing, that evolution is change but not progress, and that society multiplies her breeds of men to destroy each other?

**Product or By-product?** Despite the age-long existence of vendetta and the criminal bands, and despite the continuance in our great cities of criminal organizations that apparently have a public opinion, a code of morals and courts of their own which our statutory law fails to control, the hopes of mankind are not vanquished by the offender. Most men prefer to believe that change means progress, that society normally encourages and fosters the higher and not the lower, the spirit and not the brute, in man. Through all the ages men have accepted these propo-