

# CULTURE CONFLICT AND CRIME

By THORSTEN SELLIN

*A Report of the*  
SUBCOMMITTEE ON DELINQUENCY  
*of the Committee on*  
PERSONALITY AND CULTURE

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SOCIAL SCIENCE RESEARCH COUNCIL

230 PARK AVENUE • NEW YORK N Y

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*By* THORSTEN SELLIN

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*The Social Science Research Council was organized in 1923 and formally incorporated in 1924, composed of representatives chosen from the seven constituent societies and from time to time from related disciplines such as law, geography, psychiatry, medicine, and others. It is the purpose of the Council to plan, foster, promote, and develop research in the social field.*

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## *PREFACE*

WITH RESPECT to matters both of procedure and of content the bulletin here presented responds to substantial interests of the Social Science Research Council.

In the matter of procedure the Council is concerned doubly. It is concerned first with being useful beyond the limits of its ability to finance research, and has therefore undertaken the careful preparation and publication of research suggestions. It is concerned also with development of improved ways of working in the social fields and among these ways, of working toward more continuous and coherent knowledge. The Council has in a number of instances asked a group with some common interest to select within the range of that interest some point around which there has been a considerable amount of research, to assess the state of knowledge around this point, and to suggest preferably small next steps designed further to test hypotheses, to fill gaps and to extend the frontier of knowledge.

With respect to content the Council has been continuously interested in the personality of the individual human being as reflected in his behavior and as affected by, and in turn to some degree affecting, his cultural environment. In this field a number of activities have been sponsored by the Council in the past. Responsibility for the field has been placed in a Committee on Personality and Culture recently composed of Thorsten Sellin, Robert Redfield, and Louis A. Wirth, with the present writer as chairman.

When in 1935 the Social Science Research Council appointed Professor E. H. Sutherland and Professor Thorsten Sellin to constitute a subcommittee on delinquency under the Council's Committee on Personality and Culture, the subcommittee decided to explore some one segment of the field of causation in an effort to uncover research questions which might, when answered, expand our knowledge concerning etiological processes in delinquency. After some preliminary work it was felt that it would be desirable to undertake also an analysis of some of the basic concepts underlying criminological research. Both tasks were finally undertaken by Professor Sellin, the chairman of the subcommittee.

Professor Sellin wishes to record here his appreciation to his colleague on the subcommittee, Professor Sutherland, who during the entire period that this monograph has been in preparation has assisted with his wise counsel. A debt of gratitude to a great many sociological confreres who have at various times given the benefit of criticisms or comments is also acknowledged.

*Institute of Human Relations  
Yale University  
May 1938*

MARK A. MAY

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# I

## Criminology

### and the Way of Science<sup>1</sup>

"Criminology," says Sutherland,<sup>2</sup> "is the body of knowledge regarding crime as a social phenomenon. It includes within its scope the processes of making laws, of breaking laws, and of reacting toward the breaking of laws. . . . The objective of criminology is the development of a body of general and verified principles and of other types of knowledge regarding this process of law, crime, and treatment." Michael and Adler<sup>3</sup> give substantially the same definition. "Criminology [today] consists of information about the activities and natures of criminals, their environments, and the ways in which they are officially and unofficially treated by social agents and agencies." In this conception of criminology, sanctioned by common usage, all knowledge about crime and its repression and prevention is assumed to be "criminological." The result is that

<sup>1</sup> The first three chapters of this monograph, in the course of their development, were tentatively presented before the Sociological Research Association at its first annual meeting, Chicago, Illinois, in a paper entitled "On Some Basic Concepts of Criminology." 1936

<sup>2</sup> Sutherland, E. H. *Principles of Criminology*. Philadelphia: J. B. Lippincott Co. 1934. P. 3

<sup>3</sup> Michael, Jerome and Adler, Mortimer J. *Crime, Law and Social Science*. New York: Harcourt, Brace & Co. 1933. P. 46

textbooks on criminology show a mixture of the data of science, law, social ethics, and public administration. A textbook of human pathology would, on the same pattern, contain not only descriptions of pathological structures and processes in the human body, but an analysis of mortality and morbidity statistics, laws regarding health, medical jurisprudence, the organization and administration of hospitals, the training of physicians, and the prevention of disease, considerable attention being given the historical development of these matters.

The heterogeneous content of "criminology" has given rise to innumerable efforts to subdivide the field and to give to each section an appropriate title. The schemes of Ferri and Aschaffenburg may be recalled by those who are interested in criminological theory. One of the most recent is that of Seelig in the German *Handbook of Criminology*.<sup>4</sup> Other writers have been satisfied in drawing a distinction between "criminology" and "penology," the former containing knowledge—and information—about crime and criminals, the latter about administrative organs and processes in dealing with offenders. The etymology of these terms, however, makes their logical application difficult.

The confusion in terminology just noted extends naturally to the use of the words "criminologist" and "penologist." In press reports, not only the scholar and scientist engaged in research becomes a "criminologist" but also the fingerprint expert, the earnest police commissioner, the enlightened juvenile court judge or probation officer, and the journalist who writes popular articles about them, while the newly appointed prison warden is as likely to be called a "penologist" as the research worker who is concerned with the scientific study of penal processes.

<sup>4</sup> Seelig, Ernst. "Kriminologie." *Handwörterbuch der Kriminologie*. Berlin: Walter de Gruyter, 1933. Vol. II, pp. 67-77



Science and technology! These concepts present us the possibility of making a primary distinction between two elements now mixed in criminology. The scientist aims at the discovery of constants in the relationships among certain defined facts, the technologist at the adaptation of knowledge to the social needs of the moment. In connection with the problem of crime there exists a clear-cut need for both. We need *scientific* knowledge regarding the causative processes in criminal conduct, the social processes involved in the making, the application and the execution of laws, etc. We also need to know about the techniques required to apply scientific or other knowledge to the treatment of criminals, or the prevention of crime. Social technology *may* be enriched by science and *may* in turn be of aid in the growth of scientific knowledge, but there is a fundamental distinction between the two. The term "criminology" should be used to designate only the body of *scientific* knowledge and the deliberate pursuit of such knowledge. What the technical use of knowledge in the treatment and prevention of crime might be called, I leave to the imagination of the reader. The term "crimino-technology" is not likely to suit him.

We are compelled to admit that "criminology" as traditionally conceived is a bastard science grown out of public preoccupation with a social plague. Psychologists and sociologists have claimed the behavior content of "criminology" for their own and political science could with equal justice claim the technological aspects, since they fall almost entirely within the field of public administration. The preoccupation of these disciplines with other questions has left room for the acquisition of the more detailed knowledge possessed by the "criminologist," who actually remains a psychologist, a sociologist, a psychiatrist, a jurist or a political scientist, with a specialized concern in a question which impinges on his broader interests.

The "criminologist" does not exist who is an expert in all the disciplines which converge in the study of crime.

In the discussion that follows, our concern will be entirely with one aspect of "criminology" in the narrower sense suggested in an earlier paragraph. The questions which confront us are, even so, of a most perplexing nature. Is it possible to study crime and criminals scientifically?

If so, may we expect to arrive at valid generalizations, principles, or laws, which have predictive value?

The affirmative answer to these questions has ordinarily been taken for granted by criminologists who were rudely startled by the assertion made recently in a work by Michael and Adler<sup>5</sup> that "an empirical science of criminology is not at present possible because no empirical sciences of psychology and sociology now exist. Criminological research . . . represents an attempt to do the impossible." More recently still, one of the authors mentioned,<sup>6</sup> has taken an even more extreme position by holding that "the indeterminacy of the phenomena [of human behavior] makes scientific truth [about them] impossible."

These challenges should not be ignored. They will not be discussed here as fully as they deserve, but some of their fundamental assumptions require examination, since they are in a measure bound up with the discussion which will follow later on some of the basic concepts of criminological research.

#### THE NATURE AND AIM OF SCIENCE

When we speak of science, we are likely to think of knowledge which possesses a special and authoritative value and is

<sup>5</sup> Michael and Adler. *Op. cit.* P. 85

<sup>6</sup> Adler, Mortimer J. *Art and Prudence*. New York: Longmans, Green and Co. 1937. P. 254

organized in such a manner as to disclose the operation of "laws of nature" so immutable that prediction is possible. The scientist likewise is to our minds a person who possesses such knowledge or is engaged in its discovery. The term science, as a matter of fact, frequently means to us not only a body of systematized knowledge, but the logical method of investigation or study which is used in its construction, and the general attitude of the scientist toward the universe of data with which he deals, corresponding to the terms "science," "scientific method," and "scientific attitude."

All science rests on the assumption that in nature, whatever may be its forms or processes, there exists an orderliness which may be more or less clearly perceived by the mind through observation, aided by analytical tools.<sup>7</sup> The assumption of the "stability of nature" or the existence of constants in its interrelationships is the foundation of science. "[The] fundamental postulate [of science]" says a contemporary philosopher, "is that the world is 'knowable' and if so there must be a reason for everything, and this reason will have a universal form. Of course, science has to make that assumption, for it is its business to know. Therefore it must postulate that things are knowable. And *knowing is finding uniformities, finding rules, laws.*"<sup>8</sup>

These "uniformities" or "laws" established by scientific research serve two ends, according to another recent writer. "A law is important for science because it represents the achievement of one stage in this ordering [of natural phenomena]; it establishes a connection between a large number of pre-

<sup>7</sup> I leave to the metaphysician the question of whether this orderliness is merely laid bare by the mind or created by the mind.

<sup>8</sup> Mead, George H. "Modern Science Is Research Science." *Movements of Thought in the 19th Century*. Chicago: University of Chicago Press, 1936. Ch. XIII, pp. 264-91. p. 270. (The italics are mine.)

viously disconnected observations. A law is the more important the more complete this achievement, the larger the number of observations which it connects, and the more 'orderly' the connection. The orderliness of a connection is to be judged primarily and ultimately by the intellectual satisfaction that it gives, for the attainment of intellectual satisfaction is the end of science as of all other branches of pure learning. But, as we know, science has another value which is not purely intellectual; it enables us to exercise some control over natural processes which affect our material comfort and convenience."<sup>9</sup> This distinction should be kept in mind, but it must be remembered that scientific knowledge is not always at a given moment socially useful knowledge and therefore may not be employed for the purpose of social control. Its *social utility* does not depend on its scientific validity or the extent to which it gives "intellectual satisfaction" to the scientist. It depends rather on its *social acceptability*, which in turn is determined by tradition, custom, mores, vested interests, public policy, etc. Much of the knowledge which has social value in the sense that it is accepted as a basis for social action, is not scientific. Statutes, to give but one instance, designed by legislatures to correct a certain evil are frequently found to have no effect except the "social satisfaction" which they produce.<sup>10</sup>

It is in the study of inanimate nature that we observe what

<sup>9</sup> Campbell, Norman Robert. *Physics: The Elements*. Cambridge, England: The University Press. 1920. Pp. 68-69

<sup>10</sup> Interesting data on social resistance to technological improvements may be found in the Report of the Subcommittee on Technology to the National Resources Committee on *Technological Trends and National Policy Including the Social Implications of New Inventions*, especially in W. F. Ogburn's chapter on "National Policy and Technology" and Bernhard J. Stern's chapter on "Resistances to the Adoption of Technological Innovations." Washington: U. S. Government Printing Office. June 1937

appears to be the greatest results of scientific research. The predictions of the astronomer appear almost magical to the man in the street and the same might be said of the discoveries in physics and chemistry. They seem to indicate that in these sciences the obstacles to discovery are being gradually conquered.

By contrast, the obstacles which face the scientist endeavoring to establish the laws of social life and human conduct appear so insurmountable that they have frequently induced complete skepticism concerning the possibility of developing these sciences. "Is a science of human behavior possible in the same sense in which the natural sciences now exist?" asks Adler.<sup>11</sup> "The answer to the question is negative. The reason is that human behavior is a unique type of change. It is voluntary. Among corporeal creatures only man has free will, because only man is rational. By free will . . . I mean that human behavior can not be reduced to natural causes, that in human behavior reason is the first cause, and that the operation of the will as a rational appetite is uncaused except by God. . . . The virtues and vices are not only habits freely formed; they are habits freely exercised or transgressed. Moral behavior is, therefore, essentially contingent and relatively unpredictable. . . . To know that human nature is voluntary is to know that there are no necessary causal propositions about it. As an object of cognition, human behavior must be in the field of opinion. This does not mean that human behavior is absolutely unpredictable. It means only that at best there are highly probable propositions about what men can be expected to do under certain circumstances and in the light of their characters. These highly probable propositions are for the most part, matters of common opinion. They . . . are of two sorts:

<sup>11</sup> Adler, Mortimer J. *Op. cit.* Pp. 252-59

(1) those about the behavior of men whose habits or characteristics are fairly plain and (2) those about the influence of extrinsic factors which constitute the circumstances of voluntary action. The latter are less probable than the former. The very nature of habit entails the probability of conduct of a definite sort. There is nothing in the nature of any outer circumstance, or of any set of circumstances, which indicates the probable direction which behavior will take under the circumstances in question. This can be learned, if at all, only from much experience. . . . In the light of the foregoing analysis, all of the empirical researches which try to constitute a science of human behavior can be distinguished from the natural sciences. While the propositions of the latter are essentially contingent, they are nevertheless established by the data of research as contingently true. The possibility of scientific knowledge of this sort about natural phenomena is based upon the fact that natural changes are involuntary, are determined entirely by the natures of the changing things. In the case of human behavior, which is voluntary change, the indeterminacy of the phenomena makes scientific truth impossible. There can be a 'science' of human behavior because human behavior can be investigated and generalizations can be made for the results of such research. But this science is much more like opinion than science: its conclusions can never be better than probable. . . . Empirical psychology and social science, in so far as they attempt to investigate human behavior, would better achieve the status of science if they . . . were content to establish by careful and reliable methods probable generalizations that were superior to existing opinion." The author of this statement assumes that "scientific truth" can only be discovered through the so-called natural sciences and that the results of researches into the nature

of human behavior can only be stated in terms of probability, the inference being that "scientific truth" is stated in absolute and not in probable terms. Nevertheless, we are told that the establishment of "probable" generalizations which are superior to opinion or common sense would help social research to develop a science, presumably inferior to the natural sciences.

The view just stated does not agree with the facts. A scientific law must always be considered as a temporary statement of relationships. As knowledge increases this law may require modification. Even the natural sciences state all generalizations in terms of probability. Some qualification of these assertions is undoubtedly needed. There are sciences, the mathematical ones, in which, given certain propositions and a knowledge of logic, the conclusions are absolute. "The *truths* about which it [mathematics] is conversant are of an order altogether peculiar and singular; and the evidence of which they admit resembles nothing, either in degree or in kind, to which the same name is given, in any of our other intellectual pursuits."<sup>12</sup> "Our reasonings . . . in mathematics are directed to an object essentially different from that we have in view in any other employment of our intellectual faculties:—not to ascertain *truths* with respect to actual existencies, but to trace the logical filiation of consequences which follow from an assumed *hypothesis*. If from this *hypothesis* we reason with correctness, nothing, it is manifest, can be wanting to complete the evidence of the result; as this result only asserts a necessary connection between the supposition and the conclusion. In the other sciences, admitting that every ambiguity of language were removed, and that every step of

<sup>12</sup> Stewart, Dugald. *Elements of the Philosophy of the Human Mind*. Vol. I, 1836; vol. II, 1837. (The preface of volume I is dated at Edinburgh, 1792; that of the second volume, 1813.) Boston: James Munroe & Co. Vol. II, p. 106

our deductions were rigorously adequate, our conclusions would still be attended with more or less uncertainty; being ultimately founded on principles which may, or may not, correspond exactly with the fact."<sup>13</sup> It is these "other sciences" which concern us in this discussion. They all deal with what the logician refers to as "moral" or "probable" evidence, i.e., based on contingent facts, as compared with "demonstrative" evidence, illustrated in the mathematical sciences.

The reason for the uncertainty which Stewart ascribed to "the other sciences" we find in a statement by Poincaré. "The formulation of any law is necessarily incomplete. Such a formulation should include an enumeration of *all* antecedents as a result of which a subsequent event would be produced. If I describe all the conditions of the experiment to be made, the law would emerge—if all the conditions are fulfilled a certain phenomenon will occur. But one can never be sure that one of the conditions has not been forgotten until one has described the state of the entire universe at a given moment *t*. . . . Therefore, since one can never be sure of not having forgotten some essential condition one can not say: if certain conditions occur this or that phenomenon will be reproduced. One can only say: if certain conditions occur, it is probable that a certain phenomenon will be approximately reproduced."<sup>14</sup>

All scientific laws are therefore stated in terms of probability. It should be noted, however, that the philosopher's

<sup>13</sup> *Ibid.*, P. 108. "One of the triumphs of modern logical research has been to demonstrate the fact that all of mathematics has the same status as logic itself. That is to say, mathematics has been shown to make no factual assertions of any kind and is revealed as the instrument for exhibiting the relations of consistency and deducibility between assumptions concerning any subject matter whatsoever." Carnap, Rudolf. "Logic." Harvard Tercentenary Publications, *Factors Determining Human Behavior*. Cambridge: Harvard University Press. 1937. P. 113

<sup>14</sup> Poincaré, Henri. *Science et Méthode*. Paris: Flammarion. 1908. P. 249



use of the concept of probability refers to the type of evidence which is employed in the reasoning process. "The philosophical meaning of the word [probable] is more *comprehensive* than the popular; the former denoting that particular *species* of evidence of which contingent truths admit; the latter being confined to such *degrees* of this evidence as fall short of the highest. These different degrees of *probability* the philosopher considers as a series, beginning with bare possibility and terminating in that apprehended *infallibility* with which the phrase *moral certainty* is synonymous. To this last term of the *series*, the word *probable*, is in its ordinary acceptation, plainly inapplicable."<sup>15</sup> "As certain as death—as certain as the rising of the sun—are proverbial modes of expression in all countries; and they are both of them borrowed from events which in philosophical language are only probable or contingent."<sup>16</sup>

A self-contained "science" of human behavior based on "demonstrative" evidence could, of course, be constructed. "It might be possible" says Stewart, "by devising a set of arbitrary definitions to form a science, which although conversant about moral . . . ideas, should yet be as certain as geometry. It is of no moment whether the definitions assumed correspond with facts or not provided they do not express impossibilities, and be not inconsistent with each other. From these principles, a series of consequences may be deduced by the most unexceptionable reasoning, and the results obtained will be perfectly analogous to mathematical propositions. The terms *true* and *false* can not be applied to them; at least in the sense in which they are applicable to propositions relative to facts. All that can be said is that they are or are not connected with the definitions which form the

principles of the science; and, therefore, if we choose to call our conclusions *true*, in the one case, and *false* in the other, these epithets must be understood merely to refer to their connections with the *data* and not to their correspondence with things actually existing, or with *events* which we expect to be realized in the future. An example of such a science, as that which I have now been describing, occurs in what has been called by some writers *theoretical mechanics* in which, from arbitrary hypotheses concerning physical laws, the consequences are traced which *would* follow, if such was really the order of nature."<sup>17</sup> The type of intellectual exercise cited is obviously not what social scientists should engage in, in spite of the importance of hypotheses in research.

Human behavior falls within the field of observable facts. Therefore, no valid objection can be raised against the application of scientific methods of study to these facts. The results of such study can never lead to anything but generalizations or laws expressed in terms of degrees of probability, but this is, as has been noted, a characteristic of all sciences based on contingent data.

The skepticism regarding the scientific future of the social sciences is probably largely due to the nature of the data which the research worker in these fields must work with. Their extreme complexity is generally assumed. The possible errors due to the fact that the observer is himself a participant in the very life he investigates, affecting and affected by the material he studies, are enlarged upon. These are important considerations, but they do not permit us to assume that social facts can not be studied scientifically and laws of social life gradually established. They merely recog-

<sup>17</sup> *Ibid.* P. 109

nize that the social scientist has great hazards to overcome.

Another reason for the skepticism referred to is due to a misconception of the character of science. It is averred that the behavior of an *individual* is unpredictable, because he possesses volition. That may be true; the psychologist or the sociologist may never reach the point where he is able to state how any human will *infallibly* act under certain conditions. This is, however, not a problem limited to psychological and social sciences, but characteristic of all. The physicist, penetrating the interior of the atom, is equally unable to predict the dynamic movements of each infinitesimal particle in its universe and this in part has led to that swing toward a belief in the principle of indeterminacy, which has been stated so frequently in recent years by the physicist. "The assumption of constants in general," says Ernst Mach,<sup>18</sup> "does not include the belief in the infallibility of such an assumption in the single case. On the contrary, the research scientist must always expect disappointments. He never knows if in a given case he has taken note of all possible conditions. His experience is temporally and spatially limited and presents to him but a fraction of cosmic events (*Weltgeschehen*). No experiential fact can recur in complete detail. Each new discovery reveals our lack of insight and discloses a hitherto unnoticed segment of dependencies. Therefore, even he who in theory is an extreme determinist must in practice remain an indeterminist unless he wishes to reason away the most important discoveries. Yet science exists. Science is impossible without a certain, even imperfect, stability of data and a corresponding . . . stability in thinking. . . . There is probably no complete stability,

<sup>18</sup> Mach, Ernst. *Erkenntnis und Irrtum: Skizzen zur Psychologie der Forschung*. Leipzig: Barth. 1905. P. 461

but enough to serve as basis for the progressive ideal of a science."

Limits, then, beyond which the scientist can not go, are recognized in all fields of research. Whether or not they can be assumed to exist or to remain fixed is not germane to this discussion. "The apparent indeterminacy of the future," says Bertrand Russell, "is merely a result of our ignorance."<sup>19</sup> This would seem to most scientists, I suspect, a too optimistic view, if it implies that scientific research will ultimately conquer all ignorance and reduce all experience to scientific terms. Interpreted in another manner, it expresses a truth that should not be lost sight of, namely that our present ignorance about social and psychological facts does not permit the inference that these facts can not be the basis of research leading to the establishment of scientific knowledge, comparable in kind if not in degree to that now or in the future attributable to the natural sciences. All science must aim at the ideal of achieving a complete understanding of the phenomena it is concerned with, but the measure of achievement and its rate of progress will depend upon both the character of the data and of the investigator. One thing seems certain, namely that the criteria which govern research in the natural sciences must be applied in the study of social or psychological facts. "We must go on assuming," says Mead, "that we can give physical and mechanical statements for everything that takes place inside of us until we cannot accept these statements any longer. We must make that postulate, but we must make it a postulate and not set it up as

<sup>19</sup> Russell, Bertrand. "On the Notion of Cause with Application to the Free Will Problem." Lecture eight in his *Our Knowledge of the External World as a Field for Scientific Method in Philosophy*. London: Allen & Unwin. 1914. P. 234

a dogma. As long as we accept such a statement as a postulate, we are entirely justified in it. For it has been supported by the successes, the achievements, of science. It opens a door to the understanding of the world."<sup>20</sup> This statement was made about biology, but it applies equally well to the psychological and social sciences. A science of human conduct, one form of which we call crime, can only be constructed on the assumption that this conduct can be described in scientific terms. It is permissible, of course, to deny the correctness of this assumption, but this denial can hardly be made except on premises which lie outside the boundaries of scientific discourse, which is as rigidly circumscribed as the data with which it can deal.

Whatever the reasons may be, it must be acknowledged that progress toward the establishment of the laws of social life has been very slow. In spite of many generations and a vast number of research workers, an international authority in the field of economics was able to state recently that "anyone with scientific training who happens to look into what is called economic science must be struck by the great confusion in regard to fundamental concepts prevailing in that discipline. He will find terms used in an extremely loose way and he will gradually perceive the appalling fact that there is in economics no such thing as a universally accepted terminology not even in respect to first elements."<sup>21</sup> This statement is with equal justice applicable to sociology. Professor Cassel seems to imply that better training in scientific methods and criteria of inquiry would improve the work of social scientists. This is, at least, one justifiable assumption

<sup>20</sup> Mead, George H. *Op. cit.* P. 271

<sup>21</sup> Cassel, Gustav. *On Quantitative Thinking in Economics*. New York: Oxford University Press. 1935. Pp. 5-6

which must appear well founded to anyone who has kept close watch on the published results of social investigations and has noted the lack of clarity in the concepts used and the frequent dogmatism in conclusions drawn from inadequate data. These are not faults characteristic of the social sciences alone, but the nature of social data probably makes their removal more difficult though not less imperative than when they occur in other sciences. Only persistent striving on the part of students of society to adopt the methods and criteria of scientific inquiry will speed the conquest of these hazards and promote the continued development of social science.

## II

### A Sociological Approach to the Study of Crime Causation

One of the most important aspects of criminology is the search for the "causes" of crime. The first problem arises in connection with the very concept of cause since the word "cause" has been applied to widely different concepts. An analysis of these concepts is hardly necessary. Science has abandoned the search for "final" causes. It has practically abandoned the concept of cause except to denote a functional relationship between or among elements or facts. "When we speak of one thing being the cause of another," says Stewart, "all that we mean is that the two are constantly conjoined, so that when we see the one we may expect the other. These conjunctions we learn from experience alone."<sup>1</sup> A more recent writer voices nearly the same opinion. "The word *cause* in the scientific account of the world belongs only to the early stages in which small preliminary, approximate generalizations are being ascertained with a view to subsequent larger and more invariable laws. We may say 'arsenic causes death' so long as we are ignorant of the precise process by which the result is brought about. But in a

<sup>1</sup> Stewart, Dugald. *Elements of the Philosophy of the Human Mind*. Boston: James Munroe & Co. Vol. I, p. 53

sufficiently advanced science, the word 'cause' will not occur in any statement of invariable laws. There is, however, a somewhat rough and loose use of the word 'cause' which may be preserved. The approximate uniformities which lead to its pre-scientific employment may turn out to be true in all but very rare and exceptional circumstances, perhaps in all circumstances that actually occur. In such cases it is convenient to be able to speak of the antecedent event as the 'cause' and the subsequent event as the 'effect.' In this sense, provided it is realized that the sequence is not necessary and may have exceptions it is still possible to employ the words 'cause' and 'effect.' It is in this sense, and in this sense only, that we . . . intend the words when we speak of one particular event as 'causing' another particular event, as we must sometimes do if we are to avoid intolerable circumlocutions."<sup>2</sup> Adopting this view of the concept of causation, we understand by the "cause" of crime merely the necessary antecedents or conditions of criminal conduct. Research into the "causes" of crime becomes then a pursuit of these antecedents and the establishment of constants in their relations to criminal conduct. As it is with this particular aspect of criminological research that subsequent chapters will deal, it should be stated at the outset that the terms cause, causal, or causation (or etiology and etiological), will be frequently employed "to avoid intolerable circumlocutions," but that they are to be understood to signify merely the relationship to which reference has been made.

Most researches on the causes of crime clearly indicate that criminology is still largely in the impressionistic, specu-

<sup>2</sup> Russell, Bertrand. "On the Notion of Cause with Application to the Free Will Problem." Lecture eight in his *Our Knowledge of the External World as a Field for Scientific Method in Philosophy*. London: Allen & Unwin, 1914. P. 220



lative stage of development. The conclusions of these researches remain hypotheses which require testing before their relevancy to etiological problems can be established. It is, therefore, proper to inquire (1) whether or not the basic concepts underlying causation research are adequate. Furthermore, it is important to know (2) whether or not the procedures of investigation commonly used in causation studies are well adapted to secure scientific results. The first problem will be dealt with in this chapter, the second in chapter III.

The very foundation of studies in crime causation rests upon the definition of "crime" and "criminal." They are the subject matter of traditional criminology. Both are defined by law, but while the limitations which such definition imposes upon research has been lamented by the criminologist, it has not been seriously questioned. Even such astute critics of criminological research as Michael and Adler stated, "We cannot make empirical investigations of crime and criminals unless we have some basis for differentiating criminal from other behavior and criminals from other persons, which is so precise and definite that we will not confuse them in our observations. . . . The most precise and least ambiguous definition of crime is that which defines it as behavior which is prohibited by the criminal code. . . . Not only is the legal definition of a crime precise and unambiguous, but it is the *only possible* definition of crime."<sup>3</sup> These authors go even further in their interpretation of the concepts under discussion. While they recognize that a person who violates the criminal law thereby becomes a criminal, they add that "the most certain way . . . to distinguish criminals from non-crim-

<sup>3</sup> Michael, Jerome and Adler, Mortimer J., *Crime, Law, and Social Science*. New York: Harcourt, Brace & Co. 1933. Pp. 1-2 and note on p. 2

inals is in terms of those who have been convicted of crime and those who have not. . . . Both for practical and for theoretical purposes we must proceed as if that were true. . . . The criminologist is therefore quite justified in making the convict population the subject of his studies as he does."<sup>4</sup>

In a footnote in another section of their work, however, they raised a question which should be noted here and which they made no attempt to answer: "One of the crucial problems which confronts the criminologist is whether this manner of distinguishing criminals from non-criminals is significant for his purposes."<sup>5</sup> In designating this problem as a "crucial" one, the authors were undoubtedly right. It is *the* crucial problem. It is, furthermore, one to which little attention has been paid by criminologists. Criminology has become the study of crimes and criminals. The social demand for crime prevention and repression, the apparent precision of the legal definitions, and the availability of concrete data, collected during the law enforcement process have all aided in fixing the artificial boundaries of criminology. Such boundaries can not be recognized by science. Yet, specialization, a division of labor, is obviously necessary in research. "The scientific study of any field of phenomena," to quote George Catlin, "requires the general delimitation of that field," but that delimitation must "arise intrinsically from the nature of the subject matter and [must] not be of a purely fortuitous nature, based on some merely external similarities in what is observed."<sup>6</sup> The legal definitions which

<sup>4</sup> *Ibid.* P. 3

<sup>5</sup> *Ibid.* P. 92

<sup>6</sup> Catlin, George. "The Delimitation and Mensurability of Political Phenomena." *American Political Science Review*. 21:255-69. May 1937. The term "delimitation" is not to be interpreted as fixing the boundaries of any field or area of research, but as a manner of conceiving the intrinsic or natural properties of the objects studied.

circumscribe criminological research fall into the class of "external similarities" mentioned. Criminologists have defined the phenomena, which they study "in terms of the most available . . . [data] thereby stultifying . . . [their] entire theoretical concepts," to paraphrase a statement by Frank Ross.<sup>7</sup> We shall attempt to show that the categories set up by the criminal law do not meet the demands of scientists because they are of "a fortuitous nature" and do not "arise intrinsically from the nature of the subject matter."

### CRIME NORMS

Among the various instrumentalities which social groups have evolved to secure conformity in the conduct of their members, the criminal law occupies an important place, for its norms are binding upon all who live within the political boundaries of a state and are enforced through the coercive power of that state. The criminal law may be regarded as in part a body of rules, which prohibit specific forms of conduct and indicate punishments for violations. The character of these rules, the kind or type of conduct they prohibit, the nature of the sanction attached to their violation, etc. depend upon the character and interests of those groups in the population which influence legislation. In some states these groups may comprise the majority, in others a minority, but the social values which receive the protection of the criminal law are ultimately those which are treasured by dominant interest groups.<sup>8</sup> In democratic states this essential character of the criminal law is not so easy to discern as in states with other forms of government, but even in democ-

<sup>7</sup> Ross, Frank. *Fields and Methods of Sociology*. Bernard, L. L. (ed.) 2nd Ed., New York: Farrar & Rinehart, 1934. P. 463

<sup>8</sup> This view has been most recently defended by Joseph A. Leighton in his *Social Philosophies in Conflict*. New York: D. Appleton-Century Co. 1937. See especially Ch. XXIV on "Law and Social Ethics."

racies the importance of strong minority interest groups can be seen shaping some part of the criminal law. "Our legislators," says Manuel Gamio, in discussing the penal law of Mexico, ". . . make laws for the dominant minority, similar in race, tradition and civilization of the people of Europe . . . with the result that the laws are to a large degree copied from foreign patterns. . . . The social majorities, especially the indigenous peoples, remain outside the boundaries of these laws, which ignore their biological needs and the nature of their mental processes, their peculiar indo-hispanic culture, their economic status, aspirations and tendencies."<sup>9</sup> Among the examples he cites the law which makes the religious and the "natural" or common-law marriages illegal. In the Valley of Teotihuacan, 73 percent of the marriages are illegal, due to no conscious violation but "for the social minority, for whom the laws were made the 'natural' union is abnormal, although for the social majority . . . these unions are perfectly normal."<sup>10</sup> Similar lack of congruence between the laws of a state and the moral ideas of different social groups within its population may be observed wherever the standards of the dominant groups are at variance with those of subjected or submissive ones.<sup>11</sup> The criminal norms, i.e. the conduct norms embodied in the criminal law, change as the values of the dominant groups are modified or as the vicissitudes of social growth cause a reconstitution of these groups themselves and shifts in the focus of power. Thus crimes of yesteryear may be legal conduct today, while crimes in one contemporary state may be legal conduct in another. This lesson of history makes it a safe prediction—an empirical

<sup>9</sup> Gamio, Manuel. *Hacia un Mexico Nuevo*. Mexico City: Manuel Gamio. 1935. Pp. 186-87

<sup>10</sup> *Loc. cit.*

<sup>11</sup> More specific illustrations may be found in Ch. IV

generalization as well founded as any generalization in the natural sciences—that everything the criminal law of any state prohibits today, it will not prohibit at a given future time, unless complete social stagnation sets in, an experience unknown to the social historian.

As a matter of fact, the variability in the definition of crime—and consequently in the meaning attached to the noun “criminal”—is too familiar to the social scientist to require any demonstration. It should, however, raise in his mind the question of how such variability can permit the formulation of the universal categories required in all scientific research.

The unqualified acceptance of the legal definitions of the basic units or elements of criminological inquiry violates a fundamental criterion of science. The scientist must have freedom to define his own terms, based on the intrinsic character of his material and designating properties in that material which are assumed to be universal. There are indeed numerous instances where public policy, expressed in law, has temporarily restrained, frustrated, or fixed the social ends of scientific research in this or that field. There is also evidence to show the hampering effect which the weight of authority, ascribed to one or more scientists, has had upon the progress of research. In neither case, however, have scientists permitted non-scientists to define the basic *terms* of inquiry.

It should be emphasized at this point that the above comments do not imply that the criminal law or the data about crimes and criminals assembled in the process of its enforcement are not useful in scientific research. They are indeed a rich source for the scientist, but the application of scientific criteria to the selection and classification of these data independently of their *legal* form is essential to render them

valuable to science. Nor is it claimed that the study of criminology as traditionally conceived has no value. On the contrary, the *social* value of such research may be at times very great even when the scientific validity of its conclusions is questionable. The results of such study may afford a basis for social action or public policy which is in harmony with dominant attitudes. They may furthermore give social prestige to the investigator and therefore have distinct value to him. What is claimed is that if a science of human conduct is to develop, the investigator in this field of research must rid himself of shackles which have been forged by the criminal law. If psychiatry had confined itself to the study of persons declared legally incompetent by criminal courts, it would no doubt have learned something about mental disease, but if courts had defined and thus classified various forms of mental diseases for reasons to be sought in public policy, the psychiatrist would have learned little indeed. It is because he has insisted on defining his own terms that he is now so frequently in conflict with the law, which serves socially defined ends and is not concerned solely with what scientists do. The legislator and the administrator on the one hand, the scientist on the other, speak different languages, fundamentally irreconcilable. This is as it should be, for they are pursuing essentially different ends. The scientist has to have a language of his own in which everyday words, if they are employed, carry a specific meaning significant to him although to others they may have no such import. Confinement to the study of crime and criminals and the acceptance of the categories of specific forms of "crime" and "criminal" as laid down in law renders criminological research theoretically invalid from the point of view of science. The data of the criminal law and the data about

crimes and criminals now subservient to legal categories must be "processed" by the scientist before he can use them.

### CONDUCT NORMS

Man is born into a culture. He arrives biologically equipped to receive and to adapt knowledge about himself and his relationships to others. His first social contacts begin a life-long process of coordination during which he absorbs and adapts ideas which are transmitted to him formally or informally by instruction or precept. These ideas embody *meanings* attached to customs, beliefs, artifacts, and his own relationships to his fellow men and to social institutions. Looked upon as discreet units, these ideas may be regarded as *cultural elements*, which fit into patterns or configurations of ideas, which tend to become fixed into integrated systems of meanings. Embodied in the mind they become *personality elements*, and the sum total of all such elements may be conveniently called *personality*, as distinguished from the person's biological individuality or his inherited and acquired morphological and physiological traits. Personality then rests upon a biological foundation, which is of the greatest importance in the formation of personality. The biological make-up of an individual fixes limits to personality development, determines the character of the receptive and adaptive processes which transform cultural elements into personality elements, and influences the latter's expressions in social activity.

This definition of personality is not acceptable to all sociologists, not to mention the representatives of other disciplines. In a recent work Gordon W. Allport<sup>12</sup> analyzes no fewer than forty-eight definitions and then proposes one of

<sup>12</sup> *Personality: A Psychological Interpretation*. New York: Henry Holt & Co. 1937

his own. The one adopted above and previously used by W. I. Thomas, Ellsworth Faris, and others, he criticizes as being the result of a failure to realize that "personality is more than 'the subjective side of culture'—a truth that sociologists and cultural anthropologists with their one-sided studies of 'culture and personality' are likely to forget."<sup>13</sup> This critique assumes that psychologists *know* what personality is, when all that can be said is that for the purpose of psychological research, any sociological definition of personality is inadequate. For the same reason, sociologists insist on defining their own terms of inquiry. In studying social phenomena, they are compelled to pay attention to the person, but they see him primarily as the focus of group influences, a product of social conditioning, a social microcosm. If they prefer to use the term personality as the label for the "subjective aspect of culture," they may be criticized for contributing to the confusion of language by employing a term which is used in so many different senses that it makes rigid thinking difficult, but they can not be criticized for placing upon their inquiries the limitations imposed by their science. This does not mean that the sociologist is not interested in "the dynamic organization within the individual of those psycho-physical systems that determine his unique adjustment to his environment"<sup>14</sup> and that these "psycho-physical systems" can be left out of consideration in the study of social phenomena. It does mean, however, that sociologists are not prepared to investigate these "systems," since they are not psychologists or biologists; and that they have to rely on those scientists to define them. The value of such definitions to the sociologist can then be tested by him in his own way.

If all individuals were biologically alike and subjected to

<sup>13</sup> *Ibid.* P. 372

<sup>14</sup> *Ibid.* P. 48



identical cultural influences, all personalities would be identical. If all individuals were biologically alike, but each subjected to different cultural influences, each would present unique personality configurations. Since with the possible exceptions of identical twins, no two individuals can be found that possess the same biological equipment and since no two persons can ever be assumed to have been exposed to the same cultural influences, at least after the period of early infancy, each total personality is unique. Scientific research in the behavior field is therefore confronted with the problem of offering scientific descriptions of the growth and manifestations of unique personalities in unique biological individuals. The scientific method, however, is not applicable to the study of unique phenomena. It can only deal with classes, kinds, types. If a generalization were made on the basis of the findings in a study of a case assumed to be unique, the validity of that generalization could never be tested. Etiological research would be impossible if it could not assume that the data it employs may be grouped into classes, the units of which are identical or may at least be assumed to possess sufficient similarity to be classed together for research purposes.

Every person's existence may be regarded from one point of view at least as being made up of one choice after another. He is constantly faced with the need of deciding whether he should do this or do that. The vast majority of these choices are of an undramatic nature, involving the prosaic routine of daily life and so affected by habit that the deliberative element associated with the idea of "choice" has been submerged and the person's reaction has gradually become automatic. Such being the case, it is the new or the infrequently recurring situation in which he finds himself which most obviously calls into action the exercise of the will and com-

pels him to balance against one another the various possible reactions which the life situation in question arouses, selecting the one he deems most suitable to him at the moment. Whether the manner in which a person responds in a life situation is the result of habit or of deliberation, his reaction may be regarded as an expression of his personality. The character of that reaction depends upon what the life situation involved *means* to him. Some of these life situations, at least are sufficiently repetitious and socially so defined that they call for definite responses from the type of person who encounters them. There are attached to them, so to speak, norms which define the reaction or response which in a given person is approved or disapproved by the normative group. The social attitude of this group toward the various ways in which a person might act under certain circumstances has thus been crystallized into a rule, the violation of which arouses a group reaction. These rules or norms may be called *conduct norms*. All personal reaction or activity which they govern may be called *conduct*. The term behavior might well be reserved for all types of reactions—conduct then being a subtype—or for all types *not* defined as conduct.

Conduct, as defined above, can occur only in situations which are defined by some social group and governed by a rule of some sort. Furthermore, all conduct has been socially conditioned, since personality is a social product. Therefore, it is unwise from a scientific point of view to speak of anti-social as opposed to social conduct. These terms belong to the language of social reform. It would seem best, in order to avoid misunderstanding, to speak instead of *normal* and *abnormal conduct*, i.e. conduct in accord with or deviating from a conduct norm.

Conduct norms are the products of social life. Social groups

place on the activity of their members certain restrictions which aim to insure the protection of social values which have been injured by unrestricted conduct. A conduct norm is originally an *ex post facto* rule. Generally speaking "breach is the mother of law"<sup>15</sup> and equally a mother of conduct norms.

Every person is identified with a number of social groups, each meeting some biologically conditioned or socially created need. Each of these groups is normative in the sense that within it there grow up norms of conduct applicable to situations created by that group's specific activities. As a member of a given group, a person is not only supposed to conform to the rules which it shares with other groups, but also to those which are peculiarly its own. A person who as a member of a family group—in turn the transmitting agency for the norms which governed the groups from which the parents came—possesses all its norms pertaining to conduct in routine life situations, may also as a member of a play group, a work group, a political group, a religious group, etc., acquire norms which regulate specialized life situations and which sustain, weaken or even contradict the norms earlier incorporated in his personality. The more complex a culture becomes, the more likely it is that the number of normative groups which affect a person will be large, and the greater is the chance that the norms of these groups will fail to agree, no matter how much they may overlap as a result of a common acceptance of certain norms. A conflict of norms is said to exist when more or less divergent rules of conduct govern the specific life situation in which a person may find himself. The conduct norm of one group

<sup>15</sup> A phrase borrowed from Seagle, William. "Primitive Law and Professor Malinowski." *American Anthropologist*. 39:275-90. April-June 1937. P. 284

of which he is a part may permit one response to this situation, the norm of another group may permit perhaps the very opposite response.<sup>16</sup>

For every person, then, there is from the point of view of a given group of which he is a member, a normal (right) and an abnormal (wrong) way of reacting, the norm depending upon the social values of the group which formulated it. *Conduct norms are, therefore, found wherever social groups are found, i.e. universally. They are not the creation of any one normative group; they are not confined within political boundaries; they are not necessarily embodied in law.*

These facts lead to the inescapable conclusion that the study of conduct norms would afford a sounder basis for the development of scientific categories than a study of crimes as defined in the criminal law. Such study would involve the isolation and classification of norms into *universal categories*, transcending political and other boundaries, a necessity imposed by the logic of science. The study of how conduct norms develop, how they are related to each other and to other cultural elements, the study of changes and differentials in norm violations and the relationship of such violations to other cultural phenomena, are certainly questions which the sociologist by training and interest might regard as falling within his field. They are questions which scholars such as Lévy-Bruhl and Bayet would include within the framework of what the latter calls *ethology*—not to be confused with John Stuart Mill's characterology to which he gave the same label—or the discipline which attempts to formulate the scientific generalizations governing the structure, growth, and relationships of "moral facts!"<sup>17</sup>

<sup>16</sup> For a more detailed treatment of the conflict of norms, see Ch. IV.

<sup>17</sup> Cf. especially the introduction in Bayet, Albert. *Le suicide et la morale*.

The need for finding some basis for criminological research which would extend beyond that of the law has been expressed before. Innumerable definitions of crime have been offered which if not read in their context would appear to go beyond the legal definition. Upon examination, however, almost all of them prove to be the legal norms clothed in a sociological language. Such is not the case, however, with the definition offered by Makarewicz, who can be said to use the term crime in the sense of a conduct norm. "A crime is an act by a member of a given social group, which by the rest of the members of that group is regarded as so injurious or as showing such a degree of antisocial attitude in the actor that the group publicly, overtly and collectively reacts by trying to abrogate some one of his rights (*Güter*)."<sup>16</sup> Znaniecki<sup>17</sup> also attempts to avoid the legal definition and in his latest work we find the following statement which presents his point of view. "Because a collective system has social validity in the eyes of each and all of those who share in it, because it is endowed with a special dignity which merely individual systems lack altogether, individual behavior which endangers a collective system and threatens to harm any of its elements appears quite different from an aggression against an individual (unless, of course, such an aggression hurts collective values as well as individual values). It is not only a harmful act, but an objectively evil act, a

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Paris: Alcan, 1922; also *La science des faits moraux*, Paris: Alcan, 1925, especially Ch. I on "L'éthologie" in which the author expresses his indebtedness to Lévy-Bruhl and the latter's work on *La morale et la science des mœurs*, published in 1903.

<sup>16</sup> Makarewicz, J. *Einführung in die Philosophie des Strafrechts*. Stuttgart: Enke, 1906. Pp. 79-80.

<sup>17</sup> Znaniecki, Florian. "Social Research in Criminology." *Sociology and Social Research*, 12:207-22, March-April 1928.

violation of social validity, an offense against the superior dignity of this collective system. . . . The best term to express the specific significance of such behavior is *crime*. We are aware that in using the word in this sense, we are giving it a much wider significance than it has in criminology. *But we believe, that it is desirable for criminology to put its investigations on a broader basis; for strictly speaking, it still lacks a proper theoretic basis.* . . . Legal qualifications are not founded on the results of previous research and not made for the purpose of future research; therefore they have no claim to be valid as scientific generalizations—nor even as heuristic hypotheses.”<sup>20</sup> This extension of the meaning of the term *crime* is not desirable. It is wiser to retain that term for the offenses made punishable by the criminal law and to use the term abnormal conduct for the violations of norms whether legal or not.

#### ISOLATION AND CLASSIFICATION OF CONDUCT NORMS

The difficult problem is, of course, that of identifying conduct norms. In modern society, at least, the legal norm is relatively easy to identify, for it is embodied in statutes and judicial decisions. We have already observed that it is this ease of identification of the criminal norms which has led to the exclusive preoccupation with them which characterizes criminology. But how can conduct norms be identified? What are the characteristics which would permit classification of such norms according to the principle of identity which governs scientific categories?

A conduct norm in its irreducible form—the basic unit of our discussion—is a rule which prohibits, and conversely enjoins, a specific type of person, as defined by his status in

<sup>20</sup> Znaniecki, Florian. *Social Actions*. New York: Farrar & Rinehart. 1936. Pp. 350-52. (The italics are mine.)

(or with reference to) the normative group, from acting in a certain specified way in certain circumstances. In a life situation which from a superficial point of view appears to be well-defined, a variety of norms may actually be observed. An insult hurled by one person at another may be used as an example. The group's definition of this situation depends on the nature of the insult, the character of the person insulted, as well as of the one who insults, the circumstances under which the insult takes place, etc. Upon close examination and taking all possible combinations into consideration, we may find that instead of a single norm, a large number of conduct norms governs a life situation, which in fact is therefore reducible to the same number of specific life situations. This is well recognized even in the criminal law. Homicide is divided into many degrees, for instance, depending upon the circumstances involved. Furthermore, there are a number of legal defenses possible against a charge of homicide, evidence of the fact that the definition of that crime includes recognizable subtypes.

Individual conduct norms must ultimately be identified as belonging in classes or types before they can be manipulated in scientific inquiry. Such classifications must rest on similarities in the norms, characteristics or qualities which permit us to say that a given norm may *for purposes of research* be regarded as identical with others and forming a distinct class of conduct norms.

We can only speculate on the nature of such classifications and their bases, for definition is the end and not the beginning of research. Some hypothetical bases for classification may, however, be suggested, even though their value can not be established without actually experimenting with them.

I. A conduct norm may, for instance, be regarded as a rule supported by sanctions which reflect the value attached to

the norm by the normative group. The sanction which is an integral part of the norm—since no conduct norm without a sanction can be imagined—raises a barrier against violation. The strength of this barrier depends on the attitude of the normative group toward the conduct in question. If the barrier is weak it can be due only to the fact that the group does not offer much resistance to the violation of the norm. If the rule has powerful sanctions the group resistance must be great.

We may in a sense regard this group resistance as crystallized in the norm, giving it an intrinsic quality of strength or weakness, a power which may be measured in degrees of what the group regards as the severity of the sanction. It is not the external means or the form of the sanction which is important here, but the deterrent value which the group attaches to it. Ridicule may in one group be regarded as a mild, in another as a most severe penalty. Here again ethnology offers illuminating examples. The severest sanctions everywhere are those which deprive the nonconformist of rights, privileges or benefits which are most treasured by the group and which the conformist may enjoy. A conduct norm then, becomes a rule which governs a specific type of life situation and is authoritative to the extent of the group's resistance to violation.

The inherent energy or power of the norm, as just described, may be called its *resistance potential*. This quality could perhaps be utilized as one basis for a preliminary and experimental classification of norms. Its utility would, of course, depend on the development of some technique of measurement, whereby conduct norms, regardless of the group evolving them, could be fitted into divisions on a scale. A rank-order device would be the first step. The ob-



jections to such a procedure are familiar to all students, but if the difficulties could be reasonably well solved, it would have the advantage of providing categories of universal application.

II. Other classifications of conduct norms would either have to be based on some other intrinsic quality of the norm measurable in degrees, or on some basis on which norms, assumed to be different in *kind*, could be identified. The authority residing in the norm might be considered, for instance, as essentially different, depending on the type of group or type of social institution<sup>21</sup> which gives rise to it, or the type of social value which it protects. Any classification, it should be recalled, serves no more purpose than the catalog of elements in chemistry, but without such a catalog, the study of combinations of norms, their relationship to other cultural phenomena, etc., can not be placed on a high scientific plane and thus aid in the scientific description of the phenomena of social life.

The traditions of criminology, as well as the obvious difficulties involved in the study of conduct norms and their violations, will remind one that there is a criminal law and violations thereof, which afford material for research. We have already acknowledged that this material should be utilized; we are even prepared to admit that for a long time to come scientific research on conduct norms is likely to concern itself largely with criminal norms. If, however, the point of view expressed in the foregoing discussion is sound, such researches must adopt criteria of investigation which have not hitherto been adequately utilized.

<sup>21</sup> Cf. the interesting paper by Willard Waller on "Some Sociological Aspects of the Definition and Classification of Crimes" read before the Criminology section of the American Sociological Society, December 1935 (unpublished).

The criminal law may be regarded as the conduct code of the political group. It contains a large number of conduct norms, more or less clearly defined, and specifies penalties for violations. These penalties indicate the social values placed on the various criminal norms, and are specially useful for measurements of these values in states and for crimes for which indefinite and alternating penalties can not be imposed by the courts. Where courts have been given greater discretion in the application of penalties, the way has been opened for the redefinition of the criminal norm in practice with the result that wide local differences may be observed within a state. This decentralization of the legislative process is especially noticeable in democratic states and permits the modification of the criminal norm by courts sensitive to local group opinion. In the last analysis, therefore, the criminal norm is the norm applied by the court of a local jurisdiction—but it still remains the norm of the political group.

Legislators who wish to punish a certain form of conduct severely are often likely to place it in an already existing category of crimes with heavy penalties, even when it exhibits characteristics peculiarly its own. Statutory murder is classed with willful and premeditated murder, for instance, and designated murder in the first degree because that offense is punishable by death or life imprisonment.<sup>22</sup> The most extraordinary collection of acts may be found classed as disorderly conduct. The criminal norm is thus chiefly conceived in terms of penalties.

If we were to apply to legal norms of a state the concept of the resistance potential, we would arrive at a classification based entirely upon the degree of severity of the penalty

<sup>22</sup> Cf. Tulin, Leon A. "The Role of Penalties in Criminal Law." *Yale Law Journal*, 37:1048-69. June 1928

assigned to crimes. Offenses with the same penalty would then be grouped together regardless of any other characteristic of these offenses. This would be a logical procedure. If two crimes, no matter how varied in form, evoke the same degree of resistance, they may be regarded as injuring social values which the political group judges to be equivalent. In comparative research this concept would have interesting results. Instead of comparing the crime rates of various states for specific crimes, comparisons would be made between rates for crimes with correspondingly severe penalties, the most severe and the lightest penalties of the law of each state forming the limits of the scale for that state. The fixing of each scale would have to be made by those thoroughly familiar with the culture of the state in question and with the values of its political group. Such scales of penalties would afford a sounder theoretical basis for the classification of crimes than the labels which are now found in the criminal codes. Murder and malicious destruction of government property have approximately the same objective characteristics in the United States and in Soviet Russia; gambling is defined similarly in Japan and in the United States; but there are obviously wide differences in the social values placed by the political groups of these countries on the offenses mentioned. From a scientific point of view it may be more important to know if violations of criminal law norms of a given strength of value are rare or prevalent, increase or decrease, than to know that a crime labelled as abortion or prostitution increases or decreases.

The criminal law norms also rest on crude analogies. Embezzlement in one state is called larceny or theft in another, for instance. Rape and statutory rape are essentially different offenses, but classed together under one label by the law

because of certain crude similarities. These artificial groupings are extremely common in the criminal law and since official data on violations are compiled on the basis they furnish, the scientific manipulation of these data is rendered difficult and frequently impossible. A criminal law with classifications fully meeting the criteria of science is probably unthinkable, but the sociological analysis of criminal norms must delve below the labels of the law if it is to have any considerable scientific value. Such an analysis should attempt to arrive at a classification of criminal law norms by the type of social value which its violation injures. This presupposes a universally applicable typology of such values. Cases adjudicated by the courts would yield the best data, for the actual description of individual violations is necessary to determine their classification for research purposes, regardless of the labels of the law.<sup>23</sup> Whether the typological classifications or the one by resistance potential should be primary, is debatable. A combination of both would appear necessary. Their employment would permit us to arrive at generalizations of universal application, since the categories would have universal validity. These generalizations would describe the relationships between or among legal norms, as samples of conduct norms, the relationships between legal and other conduct norms, the transition of norms from one category to another, the interdependence of norms and other cultural phenomena, etc.

The reader of the above analysis may wonder where exactly criminology fits into the picture. Should the criminologist become an "ethologist," or should he concentrate on the study of crime? This question may be answered in this man-

<sup>23</sup> The future value of criminal statistics as a source for research data will depend on the extent to which the scientist can influence the recording of classification and tabulation of the data secured by official agencies.

ner. The etiological study of conduct norms and their violations must be infinitely broader than the study of crime norms and must be relied upon to develop basic scientific units and categories. "Ethology" is a useful term to apply to this branch of sociology, should any special designation be necessary. Criminologists are likely to continue to concentrate their efforts on the study of crime, but in conceiving their task *in terms of* "ethological" criteria, their aims and their manipulation of their data would be significantly modified, and they would in fact become "ethologists" with a specialized interest. One extension of that interest would be eminently desirable. Their concern with crime norms and their violations may well be broadened to include legal conduct norms embodied in the civil law. The line between crime and torts is in many respects a tenuous one.

#### THE NORM AS A PERSONALITY ELEMENT

We have been considering conduct norms as group rules, as objects apart from persons who violate them. Many scholars would regard the etiological study of such norms and their violations as the only aspect of research in this field that is properly assignable to the sociologist, who in such researches should endeavor to establish the laws which govern the development and transformation of norms of conduct and the relations of their violations to other social phenomena.

Conduct norms, as we have observed, arise as a group reaction to conduct which is assumed to be prejudicial to the interests of the *social* group. These interests are defined by the now concentrated, now diffused, leadership of the group in question, but the norms acquire validity to the extent they are incorporated in the personalities of those who are members of the group. Abnormal conduct is therefore from one point of view merely the violation of a group norm;

from another point of view it is the dynamic expression of a personality which in its development has incorporated cultural elements which lead their possessor to engage in abnormal instead of in normal conduct. An important function of etiological research is, therefore, the formulation of generalizations which permit us to differentiate the violator from the conformist, in terms of personality structure or growth process. Only by way of such research may we expect to reach knowledge which will describe the etiological processes involved in the conduct of a given type of person, and permit us to utilize means for the effective modification of his conduct.

It has frequently been asserted that this aspect of research falls primarily within the psychological sphere. "Psychology," says Gemelli, "which studies various types of man and his activity, also studies his criminal activity and tries to explain its mechanism . . . it devolves on us to show that the principal part of the study of delinquency belongs to psychology."<sup>24</sup> There is no need to quarrel with this point of view. We have already justified the sociologist's claim to the right to study the individual person as a carrier or locus of cultural influences.

The fundamental aim of sociological research on norm violators must be the isolation of personality elements which characterize them in contrast with conformists. It will be recalled that we have defined a "personality element" as the meaning which is attached by a person to a social or cultural element, i.e. an artifact, a social institution, an interpersonal relationship, etc. That *meaning* is defined by social groups, but the particular nature of the person who receives

<sup>24</sup> Gemelli, Agostino. "Il compito dello psicologo nello studio del delinquente." *Rivista di diritto penitenziario*. 7:415-41. May-June 1936. Pp. 420-21

it undoubtedly gives it at times an individual interpretation, which causes it to be to some degree modified when it is made part of a given personality. The *meanings* which form the sum total of the average personality must be extremely large, yet very much smaller in number than those found in a society made up of a large number of social groups. Although it is such meanings which are the basic elements of sociological research, there exists no catalog of them and the sociologist, generally speaking, probably knows infinitely less about them than does, let us say, the anatomist about the structural elements of the human body.

Personality elements in the violator, when they are isolated, probably will be found to exist in *patterns* or *configurations* of a characteristic nature. The importance of these configurations as determinants of conduct may depend on at what time and under what conditions one or more elements were introduced into personality. Genetic study of the growth of personality is therefore as essential as the cross-sectional study characteristic of many investigations. The combination of both these techniques of investigation should aim at the discovery of personality *types*. The concept of personality type or of social type is fairly generally accepted, but such typologies have usually been of an extremely crude nature. Their refinement is necessary until each type becomes synonymous with personality elements in an *exclusive* configuration. The goal of the scientist should be the arrival at generalizations which would state that if a person of type A is placed in a life situation of type B, he will violate the norm governing that life situation. Whether this goal is reachable remains for the future to determine. For a considerable period of time such generalizations will no doubt be expressed in terms of relatively low probability (in the

philosophical sense). It is the function of research to find generalizations which constantly increase this degree of probability.

Just as the study of conduct norms should theoretically include all such norms of all groups, so should no violator be regarded as falling outside the province of the student of personality. Here is obviously a field of such vastness that its cultivation might well be directed by some selective principles. The concept of the resistance potential may conceivably serve this end.

A person may experience group resistance to his conduct varying from none at all to resistance of the most powerful kind. It is in this case not a question of whether a group norm governing his conduct actually exists, but whether or not this norm is an element in his personality, so that, in other words he possesses knowledge or feelings about it. If he lacks both, his activity, no matter what its significance may be to the group it affects, is to him mere behavior lacking moral significance. The following schematic classification, therefore, suggests itself.

- I. *No group resistance* is felt by one in whom the norm is not a personality element. This condition may be due to one of several reasons.
  - (a) The person whose conduct is under observation may due to incapacity be unable to receive the norm in question. This is especially true of persons suffering from certain mental diseases or from pronounced forms of mental deficiency. Such persons may indeed come in contact with the norm, but it is frequently so distorted in the process of adaptation that it becomes to that person attached to entirely different life situations.



- (b) The absence of the feeling of group resistance may be merely due to the circumstance that the cultural groups from which the person has drawn his personality elements may not possess the norm of the group which is judging the conduct under observation. The person is in such case placed in a situation with which he is unfamiliar.
  - (c) He may finally be the product of a group or groups which has defined a certain life situation in a manner different from that of the group judging his conduct. A normal response from the person's point of view becomes abnormal in the eyes of the latter group.
- II. No group resistance is felt by one who accidentally violates a norm. In such cases the person knows of the rule, but the nature of the violation prevents that fact from having any controlling effect on his conduct. Group resistance can not be brought into play.
- III. Then there is the person in whom the norm is a personality element, but side by side with it there is another (or several) and therefore conflicting norm absorbed from some group which has contributed to the structure of his personality, but has defined the response to the same life situation in a different manner. The authority vested in the one or the other of these norms depends on what group has had dominant influences in the process of personality growth. Here we might well speak of *reduced group resistance* resulting from a conflict of norms as personality elements.
- IV. Finally *complete group resistance* may be assumed to be felt by a person who possesses only one norm, referring to the particular life situation involved.

A classification such as the above has obvious defects. One, at least, must be taken into consideration. The sensitivity of a person to the pressure of group opinion depends not solely on his intellectual grasp of the norm, but also on the extent to which the norm has emotional significance to him. He must not only *know* about the norm, he must *feel* about it. The stronger and more positive this feeling is, the greater is the likelihood that he will obey it. Healy and Bronner have recently stated: "... we constantly find the delinquent fully able to express his conscious belief that delinquency represents wrong conduct, but evidently his *feeling* about its wrongfulness has not been sufficiently strong to function as a preventive."<sup>25</sup>

The strength of the resistance potential of a norm, i.e. the group resistance to violation, as interpreted by a person who finds himself in the life situation it governs, may therefore be ultimately measured in terms of his emotionally buttressed social attitudes. It is proper, then, to assume that sociological research on norm violators should concentrate on persons who have violated norms (a) with high resistance potentials (b) incorporated as personality elements (c) which possess strong emotional tone. Offenders who have overcome the greatest and most pervasive group resistance probably exhibit more clearly than others the personality types which have significance for our research purposes.

Applying these criteria to the study of criminals, it becomes obvious that etioloical conduct research is not greatly interested in the legal label attached to the crime, but to the meaning of the crime to the violator. Significant is the presence or absence in that violator of the criminal law norm

<sup>25</sup> Healy, William and Bronner, Augusta F. *New Light on Delinquency and Its Treatment*. New Haven: Yale University Press. 1936. P. 11

as applying to the life situation involved, the manner in which this norm was incorporated in personality, the place it has in the violator's configuration of personality elements and scale of values, and its strength. Ultimately, science must be able to state that if a person with certain personality elements in a certain configuration happens to be placed in a certain typical life situation, he will probably react in a certain manner, whether the law punishes this response as a crime or tolerates it as unimportant. Such a scientific generalization could be of the greatest value, however, to the social technologist, be he legislator or administrator. This is a point of view familiar to the psychologist. "The terms by which delinquency is designated," to quote Healy and Bronner, "—larceny, truancy, breaking and entering, and so on—are descriptions of behavior which do not in the least indicate what is expressed by the offender in the delinquent act. While it seems necessary to have labels for such types of conduct, yet it must be recognized in all common sense that naming the offense reveals nothing of the determinants of behavior. It would seem equally obvious that it is just these determinants which must be known and coped with if effective treatment is to be undertaken."<sup>26</sup>

We have tried to provide a theoretical framework for causation research into which the scientific study of crime causation could be fitted. Neither argument nor conclusions are likely to escape criticism. The former is far from exhaustive and the latter are incomplete and sketchy. However, we believe the premises are sound, and if a science of conduct is to be developed, their implications must be worked out. If the above analysis succeeds in accomplishing nothing more than to focus the attention of the scholar on this fact, it will have

<sup>26</sup> *Ibid.* Pp. 3, 6

served a useful purpose. "Nothing," says Burke, "tends more to the corruption of science than to suffer it to stagnate. These waters must be troubled before they can exert their virtues. A man . . . though he may be wrong himself, yet he clears the way for others, and may chance to make even his errors subservient to the cause of truth."<sup>27</sup>

<sup>27</sup> Burke, Edmund. *A Philosophical Inquiry into the Origin of Our Ideas of the Sublime and Beautiful*. . . . London: M'Lean. 1823. P. 71

### III

## Research Procedures

We now come to another question equally important with those just discussed,—the procedures of investigation used in criminological research. Are these likely to secure scientific results? Here a distinction should be made between scientific method and research procedures. Science knows but one method, a combination of inductive and deductive reasoning which aims to demonstrate the validity of a scientific proposition. The procedures, techniques and devices which serve as instruments of this demonstration are, however, numerous, each science having developed those which appear most suitable for its purpose.

The literature of criminology dealing with causation is very voluminous. A survey made in preparation of this report and covering a score of works, themselves of the survey type, uncovered several hundreds of generalizations concerning etiological relationships.<sup>1</sup> An examination of these generalizations shows that they have been based on researches aiming to discover

1. The incidence of a trait<sup>2</sup> in a group of delinquents compared with the incidence in—

<sup>1</sup> The collection and the preliminary classification of these generalizations were made under the joint supervision of Dr. E. H. Sutherland and myself.

<sup>2</sup> In this classification wherever the words "trait," "group," or "area" appear, the plural could be used.

- (a) nondelinquents or
- (b) one or more different categories of delinquents
- II. The incidence of delinquency or delinquents in a group or area possessing a trait, compared with that incidence in
  - (a) a group or area possessing the same trait in different degree, or a different trait
  - (b) the same group or area subsequent to the modification or disappearance of the trait
- III. The trend of delinquency or delinquents in a group or area possessing a trait compared with the trend in
  - (a) a group or area possessing the same trait in different degree, or a different trait
  - (b) contemporary social or physical phenomena presumably affecting the life of such group or area.

This schematic presentation does not fully characterize all the researches in question, for most of the studies were incomplete in the sense that they failed to carry out the comparisons noted above, owing to the absence of control groups.

One conclusion may be drawn from the examination of criminological generalizations. They are based upon what might be called quantitative thinking, i.e. thinking in terms of units susceptible to counting. This is a characteristic common to all scientific generalizations. Classification of facts into categories based on the identity or rather assumed identity of units is necessary in all scientific research. Even those who insist, for instance, that a social attitude can not be measured, use the concept of social attitude in their thinking and classify such attitudes, indicating an assumption that they can be grouped on the basis of some similarity, which then becomes their identifying characteristic and renders them countable. What such scholars *may* claim is that the attitudes which they define and classify are not measurable in terms of any device

hitherto utilized. Quantitative thinking is possible without measurement, but measurement renders its results increasingly refined and reliable.

One way by which students of criminal etiology have sought the explanation of conduct has been through the study of individual offenders. This procedure, though over a century old, has been most widely utilized in the last fifty years. In the United States it has often been referred to as the case method, an unfortunate designation, since it is not a method in the scientific sense, but a technique of investigation. The data secured are usable either in inductive or in deductive reasoning.

How useful is this technique? Perhaps the answer may be arrived at by an examination of the assumptions which underlie it. Those who study the individual offender assume that if they could only learn to know all the facts about him, they would be able to determine the etiology of his conduct. They, therefore, subject the offender to "cross-sectional" as well as "genetic" study; in other words, they try to learn all that can be learned about him as he is at the time of the examination or as the end product of a growth process. This information can be gained in two ways: from oral or written responses by the person studied or by persons possessing some knowledge about him; or from direct examination with the aid of special devices. The physician, who wishes to know if his patient has had pulmonary tuberculosis may ask him, his relatives, other physicians who have examined him, etc. He may, on the other hand, take an X-ray picture and discover facts which even the patient did not know. Unfortunately, the social scientist possesses few X-ray devices and those he has (social attitude tests, for instance) are still very crude appliances. When the study of the individual offender moves from biological level to social, it is almost exclusively depend-

ent on direct or intermediate verbal responses to questions.

The data secured in the investigation are those which the investigator regards as having etiological significance. This is obvious, but needs to be stressed nevertheless. Altogether, these data form a *case record*. This record may be very voluminous, filled with the results of physical, psychiatric, psychological and sociological study, properly verified, or it may be very brief, a mere statement of a few facts similar to those gathered by the average prison clerk upon the admission of the prisoner. As to form, the record, whether full or scanty, may be literary, i.e. prepared as a story with topical divisions; or abbreviated by the use of symbols, checks or numbers familiar to those acquainted with the typical face sheets or record cards used in police departments, probation offices, etc. In the latter type of record the quantitative character of the thinking underlying the investigation stands out most clearly. Whether full or scanty, literary or quantitative in form, the case record contains only raw material for scientific analysis.

The data in any case record fit into preconceived categories acceptable to the investigator. He has applied certain criteria in the selection of facts to be recorded and he also applies certain criteria to their interpretation. These criteria of *selection* and *interpretation* are inextricably bound together. The former are based on the assumption that certain data *have* etiological significance and therefore should be recorded;<sup>2</sup> the latter are valid only to the extent that established

<sup>2</sup> It would be an interesting experiment to take an offender and submit him to examination and study by a number of representatives of different disciplines interested in abnormal conduct: a psychiatrist, a psychologist, a sociologist, a physical anthropologist, not to mention different specialists within these respective fields, the psychoanalyst, etc., asking each investigator to record fully all the data about the offender which he regards as having etiological signifi-



scientific knowledge has influenced the criteria of selection. If some such knowledge of causal relationships exists, the investigator will, among the data he records, note those facts which have significance in the light of that knowledge. If prior knowledge is lacking, the case record, no matter how voluminous, remains a repository of information which may or may not have any scientific value.

The analysis just presented seems to have described a vicious circle, which makes the advance of knowledge impossible. This is not the case, of course, but we might well ask how, under the circumstances, new relationships among recorded data may be uncovered.

Here we must appeal to the imagination of the scientist and not to his process of reasoning. The latter is important, but is relatively easy to learn. Errors in the results of reasoning are usually traceable to erroneous premises. Where established knowledge has not supplied the correct premises, the need for hypotheses arises. An hypothesis concerning new possible relationships among the data under observation is a guess until proved, but it is not the guess of the uninformed, but the "hunch" of one familiar with the data and able to perceive hidden significance in them. Chance undoubtedly plays

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ance. Such an experiment would be better than one in which a case history compiled by some one investigator would be submitted to the representatives of other disciplines for critical comment, or one in which a good case history compiled by different specialists working together (as may occasionally occur in penal institutions, for instance) were to be analyzed. In the former instance the impossibility for all but one investigator to examine the offender in question would render all criticism somewhat hypothetical; in the latter, the nature of the division of labor makes it impossible to determine the extent or character of the etiological data which any specialist omitted because he expected such data to be gathered by some cooperating colleague. The results of such an investigation would have considerable methodological value. It would reveal clearly the criteria of selection used in the disciplines concerned.

a role in new discovery but "such chances come only to those who play well."

Hypotheses are not only necessary as guides in the search for new knowledge, but are labor saving devices in research. "If a man, without forming to himself any conjecture concerning the unknown laws of nature, were to set himself merely to accumulate facts at random, he might perhaps stumble upon some important discovery; but by far the greater part of his labors would be wholly useless."<sup>4</sup> Scientific research does not consist merely in the collection of data which when analyzed will prove or disprove an hypothesis. Equally important at least for such research is the creative imagination which in the apparently heterogeneous mass of data sees order and hitherto unknown relationships, providing new avenues for research. New hypotheses can probably be suggested only within restricted limits, for the imagination of the scientist is never untrammelled, but always circumscribed, as is evident from a study of the history of any science. "Facts," which would be noted if their relevancy to a given problem were realized, are passed by because they do not fit into the framework of knowledge. An interesting story<sup>5</sup> in that connection is that of the old Philadelphia doctor who was an aseptic surgeon long before the germ theory of disease was established. The wounds of his patients healed quickly and without infection to the marvel of his colleagues who contended with high postoperative morbidity and mortality rates and who like the surgeon himself attributed his success to his skill as an operator. The old surgeon was no doubt skill-

<sup>4</sup> Stewart, Dugald. *Elements of the Philosophy of the Human Mind*. Boston: James Munroe & Co. Vol. I, p. 341

<sup>5</sup> Related to me by Professor Charles W. Burr, of the University of Pennsylvania School of Medicine.

ful, but his success had other causes. He had beautiful hands and was extremely fastidious. He used to pride himself on being able to operate without getting a drop of blood on his ruffles. He would touch neither instruments nor patients before they had been thoroughly washed and during an operation he would frequently wash his hands, insisting that his assistants do likewise. On the threshold of a great discovery, he was blind to a "fact" which later led to one of the greatest acquisitions of medical science. It is highly probable—nay, certain—that in the study of offenders we are today similarly ignoring facts which may prove later of profound importance. The history of science is a continuous illustration of this observation. Even the genial Harvey whose discovery of the circulation of the blood marked a great advance in biology was as unable to recognize the importance of the lymphatic system as was Fabricius earlier to comprehend the significance of the valves of the veins. The discovery of the circulatory process escaped the latter's grasp.

The records about individuals—whether they are persons, institutions, or anything else which contains the unit data which are to be analyzed—are, as has already been said, the raw material of scientific analysis. If such records are to yield information of value, it is in the highest degree important that they be assembled properly.<sup>6</sup> Agreement must be reached on the definition of the unit data which are gathered, so that the findings of one researcher may be compared with those of another. Unless this is consciously striven for, etiological studies in the field under consideration will be continually

\*"Every scientific classification," says Stewart, "must be founded on an examination and classification of individuals. The individuals must in the first instance have been observed with accuracy, before their specific characteristics could be rejected from the generic description, so as to limit the attention to the common qualities which it comprehends." *Op. cit.* Vol. II. P. 167

hampered and in addition to the limitations imposed by the slowly changing framework of knowledge there will remain those limitations attributable to our failure to refine the research procedures with which we are working. The latter is certainly within our power.

In the study of individual offenders the aim must be to discover personality elements which fit into universal categories. When by constant testing of hypotheses and refinement of procedures we arrive at knowledge, showing that certain elements in personality have a constant relationship to the conduct of their possessors, the discovery in a person of the identical configuration of elements would make a scientific inference possible with regard to that person's probable conduct in given situations. Verified knowledge is therefore necessary before the criteria of etiological interpretation can be applied to the conduct of a single individual.

Units of data defined in an exclusive manner can be counted, and the relationship of one class of data to others can be calculated. It is the quantitative character of thinking in the empirical sciences which has naturally given statistical procedures such prominence. These procedures are analytical instruments of greatest importance. They are the surest means of verification of hypotheses once the data have been collected. Such procedures have no inherent virtues. Like all tools they are successfully used only by those who know their limitations and possess skill in their employment. No purely technical statistical knowledge suffices. The analyst must first of all have expert knowledge of the data which, translated into statistical units, he is manipulating.

One frequently hears statistical studies in etiology compared with case studies as if they were different instead of closely related. The scholar, who compiles data on a limited

number of individuals, can only offer conjectures about the relationship he believes that he has found among his data, unless he has a sufficient number of cases. If he has these cases, he is unable to disengage the relationships without statistical description and analysis. The compilation of case records, therefore, represents merely the first step in research; the statistical analysis, the second.

When the scholar employs census data or those found in official statistical publications generally, it is easy to lose sight of the fact that he is merely using data from large numbers of case records, which have been compiled by others than himself, and described in quantitative terms. In research based on such data, the investigator is handicapped by the fact that he had no control over their definition and collection, and frequently knows little about the manner in which they were secured. A vast number of etiological studies, and certainly the overwhelming majority of sociological researches in this field have been of the character just mentioned. Since their value is so dependent on the criteria of selection which determined the collection of the basic case records, their improvement depends on the extent to which scientific criteria can replace the adventitious or purely practical ones which now decide to such a large extent the form of the case record and the tabulations of data therefrom by agencies which deal with crime or criminals.

Generally speaking, researches in criminology have employed available techniques and procedures. If the conclusions have lacked validity it has been due to a failure to use these procedures skillfully, to lack of inventiveness in devising new procedures, but above all to failure to give sufficient attention to the theoretical problems in the formulation of research questions. "What we require in the social sciences

at the present time, it seems," says Gulick, "is (1) analysis of phenomena from which we may derive standard nomenclature, measurable elements, and rational concepts, (2) the development of extensive scientific documentation based upon these analyses and (3) the encouragement of imaginative approach to social phenomena, and the publication and circulation of hypotheses so that they may be scrutinized by others in the light of experience, now and in future years."<sup>7</sup>

<sup>7</sup> Gulick, Luther. "Science, Values and Public Administration." *Papers on the Science of Administration*. Gulick, Luther and Urwick, L. (eds.) New York: Institute of Public Administration. 1937. Pp. 191-95

## IV

### The Conflict of Conduct Norms

In the second chapter of this monograph an attempt has been made to provide a frame of reference for sociological research on abnormal conduct, of which crime is but one form distinguished from others by the fact that it violates the conduct norms specifically defined by the criminal law. If the analysis there presented is sound, the conclusions must be that the study of legal norms, their violations and violators should be conceived in ethological instead of in legal terms. These conclusions may be regarded by some persons as unfounded, even perhaps as presumptuous or fantastic, but the writer at least is sincerely convinced that the basic problem upon which they rest is a real one and that upon its solution rests the future of scientific research in the criminological field. The barriers which the criminal law has erected about that field must somehow be razed.

Since in recent years a number of studies have been made on "culture conflict" and delinquency, studies which assume the existence of legal and nonlegal conduct norms in conflict with each other, it is natural to suppose that an examination of some of these researches and their theoretical framework may afford the opportunity to make a breach in the barriers

to which reference has been made. The examination completed, some suggestions concerning further studies may be appropriate.

As is natural in a nascent science like sociology, the concept of culture conflict has not yet been clearly formulated.<sup>1</sup> The phenomena which the term denotes are not viewed in the same manner by all scholars. They are sometimes regarded as by-products of a cultural growth process—the growth of civilization—sometimes as the result of the migration of conduct norms from one culture complex or area to another. However produced, they are sometimes studied as mental conflicts and sometimes as the clash of cultural codes.

#### CULTURE CONFLICT AS A BY-PRODUCT OF THE GROWTH OF CIVILIZATION

In a recent article, Frank Speck characterized the Labrador Indians in the following words: "The Montagnais-Naskapi of the Labrador peninsula illustrate for us, as well as any contemporary human group could, I fancy, an example of the intimate face-to-face type of society which is so often sought for by the social theorists. We have some of these types of cooperative primitive society in Australia, South Africa and South America. They are primary in pattern, since, through the intimate association of individuals forming them, the social fusion of kin results in producing a community whole within which there is a tendency toward harmony and the most thoroughgoing cooperation. Strife is scarcely present, violence strenuously avoided; competition even courteously disdained. These, they think, lead to ridicule. In their place are met subjection of self, generosity in respect to property, serv-

<sup>1</sup> There is perhaps no need to mention that all "culture conflicts" are conflicts of *meanings*: social values, interests, norms. There can be no clashes between the material objects of culture.



ice and opinion, the qualities which we often speak of as being found in 'good sports' and which seem to develop as social habits. And these are the qualities that to them represent honor and a welcome place in the thoughts of their associates."<sup>2</sup> Of the same group, Lips has more recently spoken, pointing to the "moral heights . . . humanity, and . . . immemorial justice," which "the simple codes of the social life of these Indians show."<sup>3</sup> Here is a group with harmonious, well integrated, consistent cultural norms. The problems of life are solved by means regulated by custom known to all. Of the same character were the self-contained, small and culturally isolated village communities which were the cradle of our Western culture, and which still exist in less rigid or pure form in isolated rural communities of the present day.

From these primitive groups there is a far cry to the modern industrial and mercantile society with its metropolitan aggregations, epitomizing our civilization. The transition, according to the sociologist, was produced by numerous factors, among which inventions, improved means of communication, the growth of population, the interpenetration of cultures, etc., are inextricably mingled and related. Whatever the processes were which resulted in or accompanied this growth, their end product is a culture which instead of the well-knit social fabric, which Speck pictured, shows a multitude of social groups, competitive interests, poorly defined interpersonal relationships, social anonymity, a confusion of norms and a vast extension of impersonal control agencies designed to enforce rules which increasingly lack the moral force which rules receive only when they grow out of emotionally felt

<sup>2</sup> Speck, Frank C. "Ethical Attributes of the Labrador Indians." *American Anthropologist*. N.S. 35:559-94. October-December 1933. P. 559

<sup>3</sup> Lips, Julius. *The Savage Hits Back*. New Haven: Yale University Press. 1937. P. xx

community needs. To a large number of persons who live in such a culture, certain life situations are governed by such conflicting norms that no matter what the response of the person in such a situation will be, it will violate the norms of some social group concerned.<sup>4</sup>

To sociologists this picture of modern Western culture suggests maladjustment or disorganization and among its many fruits they find crime, just as the psychiatrist finds neuroses. "The demands of civilized life on man," says a contemporary psychiatrist, "are subtly and cruelly exacting; the fine discriminations demanded of him are innumerable and difficult. He must, first of all, love his parents. Both his natural inclinations and public opinion oblige him to do this. Yet he must emancipate himself from his parents, very often without any encouragement from them; on the contrary, they are rather apt to cling to him emotionally. . . . Furthermore, the child, as he grows up, must inhibit his natural tendencies to acquire the things he wants by direct action; yet he must maintain his capacity and zest for competitive struggle for the goods of this world, in which struggle he must draw a line of hair-like fineness between what is moral and what is immoral or 'wrong.' And although he must acquire property and wealth, if possible, he must also be altruistic, generous, noble. He must be constantly exposed to sex stimulation through visual, aural, and olfactory channels and he must take a manly interest in the other sex in order to be acceptable socially; yet he must remain continent, or find his sexual outlets under . . . conflicting rules, traditions and emotions. . . . He must have strong drives, be aggressive and alert, yet conceal these drives as much as possible. He must have a deep respect for the truth, yet learn to suppress, deny, or distort it on innumer-

<sup>4</sup> Cf. Ch. II, p. 29

able occasions. On such foundations does our civilization rest. If a man cannot make these fine distinctions he is called a 'rigid personality,' and it seems to be true that such rigid personalities are more liable to mental or emotional derangement."<sup>5</sup> And E. H. Sutherland, contemplating the transformation of our culture from a familistic and cooperative one to an individualistic and competitive one, sees in this process the explanation of crime. The failure of a person "to follow a prescribed pattern of behavior is due to the inconsistency and lack of harmony in the influences which direct the individual. . . . The conflict of cultures is therefore the fundamental principle in the explanation of crime [and] . . . the more the cultural patterns conflict, the more unpredictable is the behavior of the individual."<sup>6</sup> These are the basic hypotheses of his *Principles of Criminology*. They clearly indicate that Sutherland views culture conflict in a manner which makes this "principle" somewhat analogous to, let us say, motion in physics. If all crime is explainable in such a manner, all sociological researches in this field would have to be conceived in terms of culture conflict. This view is not inconsistent with an analysis such as that in chapter II, but it provides merely a framework for research, a way of looking at the task of the sociological criminologist.

It would not be true to say that Professor Sutherland conceives of culture conflicts as arising solely *within* a culture, as a result of the development of disharmonious norms without any introduction of such norms from other cultural areas or systems. Such a condition is, however, with certain reservations, conceivable. The introduction of Western inventions

<sup>5</sup> Kindwall, J. A. "The Aims of Psychiatry." *Mental Hygiene*, 21:353-72. July 1937. P. 364

<sup>6</sup> Sutherland, E. H. *Principles of Criminology*. Philadelphia: J. B. Lippincott Co. 1934. Pp. 51-52

in the Orient has probably given rise within that culture to vastly more conflicts, endogenous in character, than have Western cultural norms transmitted by personal contact or impersonal means of communication, the work of missionaries and traders notwithstanding. Similarly we might defend the thesis, that given the enormous natural resources of the United States and the enterprising character of the early colonists, a culture exhibiting all the "disorganization" to which reference has been made could have developed even without the influx of national and racial groups from cultural or subcultural areas in different parts of the globe, or without contact with other cultures. The conflicts even now pointed to as existing between the norms of negroes and whites in the United States can hardly be regarded as of anything but indigenous origin. There exists no modern culture, however, which has developed without a large amount of borrowing from other cultures, and when we speak therefore of conflicts as arising within a culture as a by-product of a growth process, we are merely stating what seems to be the emphasis which is placed by some scholars on one important aspect of a wider problem. The delinquency area studies of Clifford Shaw,<sup>7</sup> for instance, indicate that in urban areas characterized by great poverty, bad housing, bad neighborhood influences, child gangs, etc., these very conditions give rise to social attitudes which conflict with the norms of the law. While Shaw stresses the fact that these areas are, in the cities he has studied, largely inhabited by European immigrants, this fact would appear to be of minor importance, since he has shown that no matter from what country these immigrants came, the delinquency rates of their children ultimately approach each other after exposure to the conditions mentioned. It is likely

<sup>7</sup> Shaw, Clifford R. *Delinquency Areas*. Chicago: University of Chicago Press. 1929

that in large European cities with homogeneous populations, the same conditions breed high delinquency.

#### CULTURE CONFLICTS AS CONFLICTS OF CULTURAL CODES

Conflicts of conduct norms may arise in a different manner from that just described. There are social groups on the surface of the earth which possess complexes of conduct norms which, due to differences in the mode of life and the social values evolved by these groups, appear to set them apart from other groups in many or most respects. We may expect conflicts of norms when the rural dweller moves to the city, but we assume that he has absorbed the basic norms of the culture which comprises both town and country. How much greater is not the conflict likely to be when Orient and Occident meet, or when the Corsican mountaineer is transplanted to the lower East Side of New York. Conflicts of cultures are inevitable when the norms of one cultural or subcultural area migrate to or come in contact with those of another, and it is interesting to note that most of the specific researches on culture conflict and delinquency have been concerned with this aspect of conflict rather than the one mentioned earlier.

Conflicts between the norms of divergent cultural codes may arise

- (1) when these codes clash on the border of contiguous culture areas;
- (2) when, as may be the case with legal norms, the law of one cultural group is extended to cover the territory of another; or
- (3) when members of one cultural group migrate to another.\*

\*This is unfortunately not the whole story, for with the rapid growth of impersonal communication, the written (press, literature) and the spoken word (radio, talkie), knowledge concerning divergent conduct norms no longer

Speck, for instance, notes that "where the bands popularly known as Montagnais have come more and more into contact with Whites, their reputation has fallen lower among the traders who have known them through commercial relationships within that period. The accusation is made that they have become less honest in connection with their debts, less trustworthy with property, less truthful, and more inclined to alcoholism and sexual freedom as contacts with the frontier towns have become easier for them. Richard White reports in 1933 unusual instances of Naskapi breaking into traders' store houses."<sup>9</sup>

Similar illustrations abound in the works of the cultural anthropologists. We need only to recall the effect on the American Indian of the culture conflicts induced by our policy of acculturation by guile and force. In this instance, it was not merely contact with the white man's culture, his religion, his business methods, and his liquor, which weakened the tribal mores. In addition, the Indian became subject to the white man's law and this brought conflicts as well, as has always been the case when legal norms have been imposed upon a group previously ignorant of them. Maunier,<sup>10</sup> in discussing the diffusion of French law in Algeria, recently stated: "In introducing the *Code Pénal* in our colonies, as we do, we transform into offenses the ancient usages of the inhabitants which their customs permitted or imposed. Thus, among

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grows solely out of direct personal contact with their carriers. And out of such conflicts grow some violations of custom and of law which would not have occurred without them.

<sup>9</sup> Speck, Frank G. *Op. cit.* P. 589

<sup>10</sup> Maunier, René. "La diffusion du droit français en Algérie." Harvard Tercentenary Publications, *Independence, Convergence, and Borrowing in Institutions, Thought, and Art*. Cambridge: Harvard University Press. 1937. Pp. 81-85

the Khabyles of Algeria, the killing of adulterous wives is ritual murder committed by the father or brother of the wife and not by her husband, as elsewhere. The woman having been sold by her family to her husband's family, the honor of her relatives is soiled by her infidelity. Her father or brother has the right and the duty to kill her in order to cleanse by her blood the honor of her relatives. Murder in revenge is also a duty, from family to family, in case of murder of or even in case of insults to a relative: the vendetta, called the *rekba* in Khabylian, is imposed by the law of honor. But these are crimes in French law! Murder for revenge, being premeditated and planned, is assassination, punishable by death! . . . What happens, then, often when our authorities pursue the criminal, guilty of an offense against public safety as well as against morality: public enemy of the French order, but who has acted in accord with a respected custom? The witnesses of the assassination, who are his relatives, or neighbors, fail to lay charges against the assassin; when they are questioned, they pretend to know nothing; and the pursuit is therefore useless. A French magistrate has been able to speak of 'the conspiracy of silence among the Algerians'; a conspiracy aiming to preserve traditions, always followed and obeyed, against their violation by our power. This is the tragic aspect of the conflict of laws. A recent decree forbids the husband among the Khabyles to profit arbitrarily by the power given him according to this law to repudiate his wife, demanding that her new husband pay an exorbitant price for her—this is the custom of the *lefdi*. Earlier, one who married a repudiated wife paid nothing to the former husband. It appears that the first who tried to avail himself of the new law was killed for violating the old custom. The abolition of the ancient law does not always occur without protest or op-

position. That which is a crime was a duty; and the order which we cause to reign is sometimes established to the detriment of 'superstition'; it is the gods and the spirits, it is believed, that would punish any one who fails to revenge his honor."

When Soviet law was extended to Siberia, similar effects were observed. Anossow<sup>11</sup> and Wirschubski<sup>12</sup> both relate that women among the Siberian tribes, who in obedience to the law, laid aside their veils were killed by their relatives for violating one of the most sacred norms of their tribes.

The relations between delinquency and the migration of the members of one cultural group to the area of another will be discussed later in this chapter.

We have noted that culture conflicts are the natural outgrowth of processes of social differentiation, which produce an infinity of social groupings, each with its own definitions of life situations, its own interpretations of social relationships, its own ignorance or misunderstanding of the social values of other groups. The transformation of a culture from a homogeneous and well-integrated type to a heterogeneous and disintegrated type is therefore accompanied by an increase of conflict situations. Conversely, the operation of integrating processes will reduce the number of conflict situations. Such conflicts within a changing culture may be distinguished from those created when different cultural systems come in contact with one another, regardless of the character or stage of development of these systems. In either

<sup>11</sup> Anossow, J. J. "Die volkstümlichen Verbrechen im Strafkodex der USSR." *Monatsschrift für Kriminalpsychologie und Strafrechtsreform*, 24: 534-37. September 1933

<sup>12</sup> Wirschubski, Gregor. "Der Schutz der Sittlichkeit im Sowjetstrafrecht." *Zeitschrift für die gesamte Strafrechtswissenschaft*, 51: 317-28. 1931



case, the conduct of members of a group involved in the conflict of codes will in some respects be judged abnormal by the other group.

#### THE STUDY OF CULTURE CONFLICTS

In the study of culture conflicts, some scholars have been concerned with the effect of such conflicts on the conduct of specific persons, an approach which is naturally preferred by psychologists and psychiatrists and by sociologists who have used the life history technique. These scholars view the conflict as internal. Wirth<sup>13</sup> states categorically that a culture "conflict can be said to be a factor in delinquency only if the individual feels it or acts as if it were present." Culture conflict is mental conflict, but the character of this conflict is viewed differently by the various disciplines which use this term. Freudian psychiatrists<sup>14</sup> regard it as a struggle between deeply rooted biological urges which demand expression and the culturally created rules which give rise to inhibitive mechanisms which thwart this expression and drive them below the conscious level of the mind, whence they rise either by ruse in some socially acceptable disguise, as abnormal conduct when the inhibiting mechanism breaks down, or as neuroses when it works too well. The sociologist, on the other hand, thinks of mental conflict as being primarily the clash between antagonistic conduct norms incorporated in personality. "Mental conflict in the person," says Burgess in discuss-

<sup>13</sup> Wirth, Louis. "Culture Conflict and Misconduct." *Social Forces*. 9: 484-92. June 1931. P. 490. Cf. Allport, Floyd H. "Culture Conflict versus the Individual as Factors in Delinquency." *Ibid.* 17p. 493-97

<sup>14</sup> White, William A. *Crimes and Criminals*. New York: Farrar & Rinehart. 1933. Healy, William. *Mental Conflict and Misconduct*. Boston: Little, Brown & Co. 1917. Alexander, Franz and Healy, William. *Roots of Crime*. New York: Alfred A. Knopf. 1935

ing the case presented by Shaw in *The Jack-Roller*, "may always be explained in terms of the conflict of divergent cultures."<sup>15</sup>

If this view is accepted, sociological research on culture conflict and its relationships to abnormal conduct would have to be strictly limited to a study of the personality of cultural hybrids. Significant studies could be conducted only by the life-history case technique applied to persons in whom the conflict is internalized, appropriate control groups being utilized, of course. Only studies of persons falling within the "reduced group resistance" category (III) in the schema presented in chapter II, page 43, would produce etiological generalizations of any relevancy to the problem of causation.

The absence of mental conflict, in the sociological sense, may, however, be well studied in terms of culture conflict. An example may make this clear. A few years ago a Sicilian father in New Jersey killed the sixteen-year-old seducer of his daughter, expressing surprise at his arrest since he had merely defended his family honor in a traditional way. In this case a mental conflict in the sociological sense did not exist. The conflict was external and occurred between cultural codes or norms. We may assume that where such conflicts occur violations of norms will arise merely because persons who have absorbed the norms of one cultural group or area migrate to another and that such conflict will continue so long as the acculturation process has not been completed. (See subcategories [b] and [c] in schema in chapter II, page 43.) Only then may the violations be regarded in terms of mental conflict.

If culture conflict may be regarded as sometimes personalized, or mental, and sometimes as occurring entirely in an

<sup>15</sup> Burgess, Ernest W. in Clifford R. Shaw's *The Jack-Roller*. Chicago: University of Chicago Press, 1930. Pp. 181-197, p. 186

impersonal way solely as a conflict of group codes, it is obvious that research should not be confined to the investigation of mental conflicts and that contrary to Wirth's categorical statement that it is impossible to demonstrate the existence of a culture conflict "objectively . . . by a comparison between two cultural codes"<sup>16</sup> this procedure has not only a definite function, but may be carried out by researches employing techniques which are familiar to the sociologist.

The emphasis on the life history technique has grown out of the assumption that "the experiences of one person at the same time reveals the life activities of his group" and that "habit in the individual is an expression of custom in society."<sup>17</sup> This is undoubtedly one valid approach. Through it we may hope to discover generalizations of a scientific nature by studying persons who (1) have drawn their norms of conduct from a variety of groups with conflicting norms, or (2) who possess norms drawn from a group whose code is in conflict with that of the group which judges the conduct. In the former case alone can we speak of mental or internal culture conflict; in the latter, the conflict is external.

If the conduct norms of a group are, with reference to a given life situation, inconsistent, or if two groups possess inconsistent norms, we may assume that the members of these various groups will individually reflect such group attitudes. Paraphrasing Burgess, the experiences of a group will reveal the life activities of its members. While these norms can, no doubt, be best established by a study of a sufficient number of representative group members, they may for some groups at least be fixed with sufficient certainty to serve research pur-

<sup>16</sup> Wirth, Louis. *Op. cit.* P. 490. It should be noted that Wirth also states that culture should be studied "on the objective side" and that "the sociologist is not primarily interested in personality but in culture."

<sup>17</sup> Burgess, Ernest W. *Op. cit.* P. 186

poses by a study of the social institutions, the administration of justice, the novel, the drama, the press, and other expressions of group attitudes. The identification of the groups in question having been made, it might be possible to determine to what extent such conflicts are reflected in the conduct of their members. Comparative studies based on the violation rates of the members of such groups, the trends of such rates, etc., would dominate this approach to the problem.

In conclusion, then, culture conflict may be studied either as mental conflict or as a conflict of cultural codes. The criminologist will naturally tend to concentrate on such conflicts between legal and nonlegal conduct norms. The concept of conflict fails to give him more than a general framework of reference for research. In practice, it has, however, become nearly synonymous with conflicts between the norms of cultural systems or areas. Most researches which have employed it have been done on immigrant or race groups in the United States, perhaps due to the ease with which such groups may be identified, the existence of more statistical data recognizing such groupings, and the conspicuous differences between some immigrant norms and our norms.

#### IMMIGRANTS AND OUR LAW

The belief that immigrant groups are largely responsible for our high criminality has been and is frequently expressed. Many have written about the criminality of these groups, but most of their observations have been based on inadequate data. We need only point out that in order to establish the criminality of a group, we must be able to identify this group with a high degree of accuracy and know its size and composition so that proper bases for the computation of rates will be available. Furthermore, we must establish the extent and character of the crimes committed by members of this group,

before rates can be computed. In other words, adequate population as well as criminal statistics are necessary. Deficiencies in both these fields of statistics have been responsible for much of the confusion which is evident in the literature, and to these lacks have been added hasty interpretations.

It is of little use to review here the history of the beliefs concerning the criminality of the immigrant. A good summary as well as the best collection of statistical data—such as there are—will be found in the report on crime and the foreign-born, issued a few years ago by the National Commission on Law Observance and Enforcement.<sup>18</sup> Before discussing the explanations which have been offered for the criminality of these groups, however, it may be wise to refer to some impressions which may be gained from available statistics, and to point out some difficulties in the interpretation of these statistics.

#### WHAT APPEARS TO BE THE EXTENT AND THE CHARACTER OF THE IMMIGRANTS' CONTACTS WITH OUR LAWS?

It is common practice today to attempt to distinguish between the criminality of the foreign-born and that of their children and to compare either or both with the criminality of the natives of native parentage. We are also interested in these data as they refer to parent and child generations of specific immigrant groups. The first problem that we face is that of identification of the groups in question. Our population censuses furnish rather detailed data on the immigrant groups, so that for census years at least we possess reasonably accurate figures on country of origin, and the sex and age distribution of each group within different areas in this coun-

<sup>18</sup> National Commission on Law Observance and Enforcement. *Report on Crime and The Foreign-Born*. Washington: U. S. Government Printing Office. 1931

try. The great disturbing factor is the mobility of some immigrants, however, and this renders it increasingly difficult to establish, as the intercensal years pass, the population basis upon which crime rates must rest. Furthermore, since nativity is determined by political boundaries, we find in the "Russian" group, for instance, such diverse elements as the Russian and the Jew, and in the Czechoslovakian group—in addition to the Jew—Czechs, Slovaks, Germans, etc. In other words the population statistics on the foreign-born hide completely the existence of different cultural groups and cut across culture areas, which are more important to the sociologist than are political divisions.

Even if we had accurate population statistics we would next be faced with the question of assessing the accuracy and the utility of criminal statistics. We should like to know whether this or that immigrant group possesses more or fewer violators per population unit of a certain character than does another group, or commits more crimes than the latter. The value of criminal statistics as an indicator or measure of real criminality has been discussed elsewhere and will not be repeated here.<sup>19</sup> Suffice it to say that it is impossible, of course, to utilize crimes known to the police for such a measurement in this instance; that arrest and prosecution figures are likely to be most useful, especially when studied in the light of conviction statistics, and that prison statistics are least important, although they have been most commonly employed in assessing the relative criminality of different nativity groups. However, these are all statistics of contacts with the law and they can be employed as indexes of criminality only when it can

<sup>19</sup> Sellin, Thorsten. "The Index Question" in *Research Memorandum on Crime in the Depression*. See also Young, Donald. *Research Memorandum on Minority Peoples in the Depression*. New York: Social Science Research Council, 1937

be assumed that they portray faithfully the incidence of criminality whether discovered or not.

There is ample evidence to show that the immigrant suffers from differential treatment in the process of law administration. This is partly due to his origin, partly to his economic and political status. Whatever the reason he is more likely to be arrested and convicted, and when sent to prison he is likely to go with a heavier sentence than is the native born.<sup>20</sup> Membership in an immigrant group, especially when the social distance between that group and the dominant community group is great means artificially raised crime rates and the researcher is compelled to take this into account in his studies.

A contrary factor operates to lower recorded crime rates artificially and this must be appraised as well by the investigator. Smith<sup>21</sup> notes that "outside the grosser crimes, the affairs of the Japanese seldom come before the public eye, because of the unofficial system of regulation within the group. The secretaries of the Japanese Associations have settled many difficulties between members of their own group and those of other races and thus have avoided unfavorable publicity. The Japanese are solicitous in counselling their children to commit no act which might tarnish the family name or disgrace their racial group in the eyes of the Americans." The same situation has been reported by Robison with regard to the ghettos of New York City.<sup>22</sup> It appears then that where

<sup>20</sup> See my article "Race Prejudice in Administration of Justice." *American Journal of Sociology*. 41: 212-17. September, 1935. Cf. Claghorn, Kate Holladay. *The Immigrant's Day in Court*. New York: Harper & Bros. 1923. *Report on Crime and The Foreign-Born*. *Op. cit.*

<sup>21</sup> Smith, William Carlson. *Americans in Process*. Ann Arbor, Michigan: Edwards Brothers Inc. 1937. P. 218

<sup>22</sup> Robison, Sophia Moses. *Can Delinquency be Measured?* New York: Columbia University Press, 1936

cohesive groups exist which are more or less in conflict with the dominant community group, some of the delinquency within such groups will be hidden, partly perhaps out of disagreement with the value attached to such delinquency by the dominant group, partly because of a belief in self-help, and partly as a defense measure in order not to increase antagonism. This suggests that the more dispersed and weak an immigrant group is in a community, the less likely will be its success in keeping violations from the eyes of the authorities.

These observations justify the conclusion that criminal statistics, when used as measurements of the real criminality of social groups, must be employed with much caution. With this in mind let us glance at the most recent data available concerning the extent and character of the contacts with the law, exhibited by different immigrant groups. Our purpose will not be to demonstrate that one group is more or less criminal than another. Rather, we wish to indicate what groups could most profitably be studied. The foreign-born will first be considered and then the second-generation.

#### FOREIGN-BORN

It is generally held today that the foreign-born in the United States comes into contact with the law less frequently than does the native group as a whole. This conclusion was arrived at as early as 1910 by the Immigration Commission, was repeated by the so-called Wickersham Commission and is substantiated by the data currently published by the Bureau of Investigation of the Department of Justice, not to mention the annual reports on prisoners issued by the Bureau of the Census. These conclusions have, as such, no great scientific interest, for the term foreign-born is wide. The student would like to reach more specific information about



the data as they apply to specific foreign-born groups and to specific offenses in each group. The Wickersham Commission's report, already cited<sup>23</sup> contains certain data which are suggestive. We find there, for instance, (1) the number of persons arrested by police, or arraigned in city magistrates' courts, per 10,000 of same population class by nativity and by country of birth, in 31 cities, having a population of more than 100,000 (single years, either 1929 or 1930) (2) the number of persons, per 100,000 of same population class 18 years of age and over, arrested in the state of New York during 1929 and charged with felony or certain major misdemeanors (3) the number of males over 20 years per 10,000 males of same age charged with felonies in Chicago, 1925-29 (4) the number of persons, 15 years and over, per 100,000 of the same age group charged with six major offenses in nine cities during a 1-year period. It will be noted that in some of these cases, the data are given for males only, in others without distinction of sex, a fact which undoubtedly has some effect on the comparative rates. In some of the tables the rates are given by offense, in others merely for specific nativity groups.

If we ignore the specific offenses, and merely rank the groups in order of the rates, the highest rates being at the top, we get the following results. The horizontal numbers in the heading refer to the sources given above.

This table, which has been made up after some rough and ready manipulation of the original data gives no indication of the spread between the ranks. Generally speaking, the first few places represent abnormally high rates as compared with the rest. In the case of column 2 for instance, the Greek rate was 779, the native white rate, 347, the Italian rate 344, the Austrian rate 196, the Russian rate 189, and so on down to a rate of 38 for Czechoslovakia.

<sup>23</sup> See footnote 18, pp. 100-2

TABLE 1

| Rank | (1)            | (2)            | (3)            | (4)            |
|------|----------------|----------------|----------------|----------------|
| 1    | Greece         | Greece         | N.W.*          | Italy          |
| 2    | Lithuania      | N.W.*          | Italy          | Lithuania      |
| 3    | N.W.*          | Italy          | Greece         | N.W.*          |
| 4    | Poland         | Austria        | Lithuania      | Greece         |
| 5    | Italy          | Russia         | Poland         | Poland         |
| 6    | Yugoslavia     | Poland         | Russia         | Austria        |
| 7    | Scandinavia    | Canada         | Austria        | France         |
| 8    | Austria        | France         | Czechoslovakia | Russia         |
| 9    | Russia         | Lithuania      | Germany        | Canada         |
| 10   | Czechoslovakia | Gt. Britain    | Hungary        | Gt. Britain    |
| 11   | Ireland        | Scandinavia    | Canada         | Yugoslavia     |
| 12   | France         | Hungary        | Scandinavia    | Hungary        |
| 13   | Canada         | Ireland        | Ireland        | Scandinavia    |
| 14   | Hungary        | Germany        | Gt. Britain    | Germany        |
| 15   | Germany        | Czechoslovakia |                | Ireland        |
| 16   | Gt. Britain    |                |                | Czechoslovakia |

\* Native White

The New York table, reproduced from the Wickersham report, shows the distribution of offense charges with respect to the different nativity groups. It suggests, since the rates for "all other white" groups are the highest, next to the Mexican rates, that there are within that category, some groups that would well repay special study.<sup>24</sup>

Generally speaking Mexican rates are high, but are said to be untrustworthy, due to the migratory character of that group. This is merely one piece of evidence of a factor which our criminal statistics do not reveal. How much of the criminality in a certain locality is attributable to an immigrant group residing there and how much to transient members of that group? The arrest data upon which we based our ranking in Table 1, col. 1, show the Scandinavian group high on the list, but an examination of the data for the individual cities involved shows high rates for coast towns and low rates for the inland towns, suggesting that a transient sailor group may be responsible for the high rates.

<sup>24</sup> *Ibid.* P. 109



Japanese rates appear to be generally low, while the Chinese rates are high, at least for minor offenses. The race line makes it difficult, however, to tell what part of the rates is attributable to the foreign-born and what to the children born here. In criminal statistics the distinction is not clear.

The data presented here and the findings of a number of other studies show then that while most foreign-born groups do not come in contact with the law as frequently as the native-born, some have much higher rates than the latter. Furthermore, even when the rates may be low for most offenses attributable to a group, they may be extremely high for a few crimes. Therefore, further studies aiming to establish the incidence of law violations by the foreign-born must (1) not only give more attention to the determination of the accuracy and the representative character of the data but (2) must be based more and more upon police statistics (3) must be confined to specific nativity groups (4) must be in local areas, since only then can the researcher secure the best control over his material and know its weak as well as its strong points. We might add that those European nativity groups which show extraordinary high rates—the Greek, the Lithuanian, the Polish, the Austrian, and the Italian<sup>23</sup>—should be studied most intensely and the same holds true for the Mexican and the Oriental groups. The latter seem curiously enough to have received the attention of the scholar much more than the others.

#### THE SECOND GENERATION

When the high position of the official rates for the native white group is observed, it is generally assumed that if it

<sup>23</sup> Cf. De Porte, J. V. and Parkhurst, Elizabeth. "Homicide in New York State, A Statistical Study of the Victims and Criminals in 37 Counties in 1921-1930." *Human Biology*. 7: 47-73. February 1935

were possible to segregate at least the native white of native parentage from the second generation of immigrant stock, it would be found that the former has favorable rates, and that in fact it is the latter group which is chiefly responsible. Unfortunately, criminal statistics rarely contain data which would make it possible to test this assumption and it is chiefly the experiences of the courts for juveniles and adults in our largest cities where most of our immigrant groups live which have given rise to this belief.

The Wickersham Commission<sup>26</sup> in the report already cited took advantage of the police reports of Buffalo and Detroit of 1930 to compute the rates for the various offense groups in the uniform classification of crimes used at that time by these cities. The reports gave the number of male persons of native, foreign, and mixed parentage charged with crimes. The computed rates were based on the male population, 15 years and over, of the three nativity groups mentioned. In Buffalo, the native parentage group rate for the offenses included in Part I of the classification (criminal homicide, rape, robbery, aggravated assault, burglary, larceny, and auto-theft) was 164, the foreign parentage group rate 207, and the mixed parentage group rate 67. The corresponding rates for Detroit were 53, 51, and 22. In Buffalo these groups had the following rates for other offenses, 1,265; 1,016; and 233; while in Detroit these rates were 275, 143, and 51. In other words, in Detroit the highest rates for persons charged were those of the native parentage group, while in Buffalo, the foreign parentage group led in the serious crimes. In both cities the mixed parentage group had the lowest rates for both serious and milder crimes.

If we examine the rates for specific offenses, some interest-

<sup>26</sup> *Op. cit.*, sec. 7. "American-born Sons of Immigrants in Relation to Crime."

ing differences appear. The highest rates were recorded in Buffalo for the native parentage group in the case of manslaughter by negligence, forging and counterfeiting, embezzlement and fraud, sex offenses except rape, drunkenness, disorderly conduct and vagrancy. The foreign parentage group led in rape, robbery, aggravated assault, burglary, larceny, auto-theft, minor assaults, liquor law violations, and gambling. Both groups had about the same rates for murder, carrying weapons, offenses against family and children, and drug law violations. The mixed parentage group led in murder, but all other rates were amazingly low in comparison with those of the other two groups.

In Detroit, the native parentage group had the highest rates for manslaughter by negligence, rape, aggravated assault, larceny, auto-theft, forgery, embezzlement, carrying weapons, sex offenses except rape, liquor law violations, drunkenness, disorderly conduct, vagrancy, and gambling. The foreign parentage group led in robbery, burglary, and offenses against family and children. The murder and minor assault rates were approximately the same for both groups. Again the generally lower rates for the mixed parentage group are noteworthy.

The Commission also computed the conviction rates for Detroit for the year and for the groups and offenses under discussion. The foreign parentage groups showed a higher rate only for murder, burglary, and offenses against family and children.

In 1933, the Bureau of the Census having observed that for years the commitment rates to Federal and State prisons and reformatories for adults had been much higher for native born than for foreign-born whites, asked the reporting institutions to indicate the country of birth of the parents of

the prisoners committed during the year. Twenty-six states supplied this information for over ninety percent of their prisoners. The rates had to be computed on the 1930 population basis.<sup>27</sup> No rates were given for specific nationalities or offenses. In only nine states did the foreign parentage group show higher commitment rates than the native parentage group, and in three other states the two groups had nearly equivalent rates. Generally speaking, the mixed parentage group had the lowest rates, except in the District of Columbia, Oregon, and Vermont, where it led the other two groups. Furthermore, it had a higher rate than the foreign parentage group in Oklahoma, Wisconsin, South Dakota, and Washington. In Arkansas alone did the foreign-born whites have a higher rate than their children.

The states where the foreign parentage group showed to disadvantage in comparison with the native born were Massachusetts, Connecticut, Rhode Island, New York, New Jersey, Pennsylvania, Ohio, Illinois, and Vermont; all but one among the leading industrial states of the Union and containing therefore the most highly urbanized population. Nevertheless, the fact that in so many states the second generation of immigrant stock showed to such advantage comes as a great surprise to those who have thought of this group as a scapegoat. The data suggest that it is merely an historical accident that the second generation has grown up in our Eastern and Central Eastern slums and that in other states the slum areas are chiefly inhabited by native born and their children and that this accounts for their higher rates. Unfortunately, we can only speculate on this question since no

<sup>27</sup> *Prisoners in State and Federal Prisons and Reformatories, 1933*. Department of Commerce, Bureau of the Census. Washington: U. S. Government Printing Office. 1935. Table 23

studies on this point have yet been inspired by the findings of the Census Bureau.<sup>28</sup>

\* Statistical studies of comparative offense rates of various nativity groups should depend chiefly upon police records, but until the annual reports of local police departments are greatly improved, studies using such recorded data for the U.S. will have to be confined to relatively few communities. The *Guide for Preparing Annual Police Reports*, originally designed by the Committee on Uniform Crime Reports of the International Association of Chiefs of Police and later revised and broadcast to all departments by the Department of Justice (1935) contains a table (VII) which calls for the distribution by offense groups in the standard classification of arrests or persons charged in the following categories, by sex—native white of native parentage; native white of foreign parentage; native white of mixed parentage; foreign-born white; negro; Indian, Chinese, Japanese. Some departments adopted this *Guide* (cf. footnote 11, p. 93 of my *Research Memorandum on Crime in the Depression*. New York: Social Science Research Council. 1937), but even those who did adopt it, do not always use this table; when they do, they may give it another form. For instance, Cincinnati, Buffalo, Detroit, Rochester, N.Y., Elizabeth, N.J., Wichita, Kan., and Pontiac, Mich., are said to be using the *Guide* substantially, yet neither Elizabeth nor Wichita give the table mentioned. Buffalo, Detroit and Pontiac give it, the latter city segregating Mexicans from the "other races" group, while Detroit in addition gives country of birth by offenses of all whites and other races separately. Cincinnati does not segregate the various native born groups by parentage; neither does Rochester, which in addition uses an offense classification of its own. Fort Worth, Los Angeles, and Boston use the *Guide* in part, but the first gives no data on the nativity of persons charged; Los Angeles does not divide the native born group, but gives detailed data on country of birth of the foreign born whether white or colored and keeps juveniles segregated from adults, while Boston records by offense the arrests of "foreigners"—not to be confused with "non-residents" who are also given their column. These glimpses of merely a few police reports indicate the variations in the statistics. New York City which publishes the most voluminous of all police reports gives no data on nativity. Philadelphia issues no report at all.

It must be recognized, of course, that rates for the native born of different parentage groups can be computed only if adequate population statistics are available. The 1930 census will supply these statistics and therefore a concerted effort should be made in that year to secure as detailed statistics as possible from police departments, generally. Any student concerned with the questions raised in this chapter should find it to his advantage to subject the police records of 1940 to close scrutiny and even to make his own tabulations, if the nature of those records permits it. It is even conceivable that in many communities the police department, if approached, would be willing to make



The differences in the crime rates of various nationality and nativity groups have given rise to a variety of explanations. Prominent among them is the theory of racial differences, which suggests that the low rates of the "old" immigrants are due to their Nordic ancestry, while the high rates of the South Europeans are due to their Mediterranean race origin. Chiefly exploited by the eugenicists and certain physical anthropologists, this theory played a prominent role in the shaping of the discredited researches of Laughlin<sup>29</sup> on the criminality of the foreign-born, which in spite of their errors made convincing impression on those who constructed our present immigration law. The arguments of the race biologists need not be considered here, however. Whatever their validity might be, they fall outside the specific sphere of the sociologist.

Sociological explanations of the divergent rates of various nativity groups have been made in cultural terms. Generally, they may be fitted into the two approaches referred to earlier in this chapter. Either the immigrant's crimes are thought of as the result of (1) a conflict between the conduct norms of the old and the new culture, or as the result of (2) a removal from a rural to an urban environment or (3) from a well organized homogeneous society to a disorganized heterogeneous one. Usually no particular effort is made to separate

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in that year a record of information, which it may not habitually secure concerning persons arrested.

<sup>29</sup> Laughlin, Harry H. "Analysis of America's Melting Pot." *Hearings before the Committee on Immigration and Naturalization, House of Representatives*. Sixty-Seventh Congress, Third Session, November 21, 1922. Washington: U. S. Government Printing Office. 1923. Serial 7-C, pp. 725-829. Cf. "Restriction of Immigration." *Hearings . . .* Sixty-Eighth Congress, First Session on H.R. 5, H.R. 101, and H.R. 561. Washington: U. S. Government Printing Office. 1924. Serial 1-A, pp. 914. Note especially statements by R. R. Lutz (pp. 250-83) and H. S. Jennings (pp. 510-18).

these phenomena from one another and traces of all may be found in most studies. This renders any classification of these researches purely arbitrary.

We have noted that crime has been explained (Sutherland) as the by-product of a cultural growth process, an accompaniment of a change from a familistic and cooperative culture to an individualistic and competitive one. Such a process is viewed as of long duration, but when the immigrant from rural Europe settles in our cities he is seen to pass through a sort of *social recapitulation process* which within the limit of his own lifetime illustrates the development process of our industrial society. "The problems of the immigrant," says one author,<sup>30</sup> "have their origin, for the most part, in the change he is making from a primary to a secondary society. It is not simply that a Pole or an Italian has come to America, but rather that a villager has come to the great city. Being of a different language and cultural group complicates the situation, it is true, but many of the Polish peasant's difficulties appear when he moves to an industrial city in Poland, and conversely he escapes many of the self-same difficulties if he moves to rural America and avoids the corroding urban influences. This observation is borne out by the behavior of rural Americans who go to the great city, and by the relative ease with which the city-bred European fits into American urban life."

The effect of this rapid transition from one type of culture to another is seen, then, in a gradual loss of primary group controls, especially noticeable in the family. In the case of the immigrant this is hastened by the physical distance from his family group, which often is left behind in the old coun-

<sup>30</sup> Young, Pauline V. "Social Problems in the Education of the Immigrant Child." *American Sociological Review*. 1:419-29. June 1936. P. 420

try.<sup>31</sup> Where the primary group controls remain reasonably strong, it appears that the disorganizing influences of our city mores can be resisted. The Ghetto acts, for instance, as a sustaining group which for a while at least achieves some control over its members. Escape from the Ghetto, on the other hand, means increased contact with the mores of outside groups, and speeds the acculturation process which if it means adjustment to our heterogeneous conduct norms, can only result in greater possibilities for norm violations. In the case of the second generation, these phenomena are particularly well illustrated, and most researches have been concerned with this group.<sup>32</sup>

In a recent work, W. C. Smith<sup>33</sup> has surveyed the studies of the delinquency of the Oriental in the United States. He begins with a discussion of Oriental social heritages transplanted to our soil. "These heritages . . . are tenacious. Much immigrant behavior cannot be explained apart from these old-world traditions. In a crisis situation, particularly, there is a tendency to react on the basis of traditional standards. Certain of these heritages are transmitted to the children who are born and reared in America. It is because of their contacts with the old-world heritages in the immigrant home and community that the American-born youth differ from typical American children. Contacts with these heritages bring many problems into the lives of the young people. A serious situation arises when children reared in immigrant homes, break

<sup>31</sup> Cf. Brace, Charles Loring. *The Dangerous Classes of New York and Twenty Years' Work among Them*. New York: Wynkoop and Hallenbeck, 1872. P. 35

<sup>32</sup> Nowhere, perhaps, has this been made more clear than in the eminent study of *The Polish Peasant in Europe and America* by Thomas, William I. and Znaniecki, Florian. 2 vols. New York: Alfred A. Knopf, 1927. Originally published in 1918.

<sup>33</sup> Smith, William Carlson. *Americans in Process*. Ann Arbor, Michigan: Edwards Bros. Inc. 1937. P. 2

from these traditions before they have acquired American standards and behavior patterns."

What are some of these heritages? First and foremost is the family solidarity which characterizes the Oriental culture and which is strongly supported by religious and other beliefs. Closely related is the belief in male superiority and the customs of sex separation, and arranged marriages. The cooperative aspect of Chinese village culture is shown in the village and district organizations which are transplanted. Smith also notes that the Chinese are fond of gambling and quotes certain sources which maintain that "gambling is deeply rooted in the folkways of the Cantonese" and that "it is as natural for the Chinaman to gamble as for a baby to drink milk."

When these culture patterns or norms come into contact with the American culture, conflict ensues. Family solidarity is weakened in many ways. This and abnormal sex distribution may lead to mixed marriages. Physical distance from the homeland weakens family control over members who have emigrated. Sex separation is unenforceable under American conditions with its co-educational school system. Arranged marriages are more and more difficult to effect. Male superiority can not be maintained in the face of the equalitarian beliefs of this country, etc. The village organizations become "tongs" which often engage in criminal activities, especially in vice and narcotics.<sup>34</sup> "In certain towns of Northern California the commercialized gambling of the Chinese is highly organized and constitutes an important part of the business of the community."<sup>35</sup>

<sup>34</sup> Cf. article in *New York Times*, November 21, 1937, on the widespread narcotic trade said to be carried on by the powerful Hip Sing tong.

<sup>35</sup> Smith, William Carlson. *Op. cit.* P. 8

The effect of this conflict between the cultural codes of East and West is said to be especially deleterious for the second generation. "Young Americans of Oriental ancestry do not have any well-defined behavior patterns to follow. They have been reared in homes where old-world heritages have dominated. But when the immigrant parents sought to adjust themselves to a new culture, new demands were made upon their habits, and the old-world behavior patterns failed to function efficiently. Confusion in their standards and codes was inevitable. Because of this breakdown in the socially systematized rules, the immigrants have been unable to set up well-defined behavior patterns for their children. Old-world codes were frequently imposed but the Westernized youth rebelled against them . . . the young people have not yet become completely organized with reference to the American group and its standard of conduct. They have made contacts with American life at many points and these very contacts have exerted a disorganizing influence. The person must be able to understand and appreciate the socially regulatory devices of a group if he is to be controlled by them. But since the young people of oriental ancestry do not fully understand either the parental group or the Americans, their behavior is frequently non-descript and puzzling; some behave in ways that are contrary to all socially prescribed modes of conduct."<sup>36</sup>

In support of these observations, Dr. Smith presents certain juvenile court statistics for the city of Honolulu, giving the annual average number of convictions, 1914-26, per 100,000 children, 10-17 years of age, for a number of race or nativity groups. "The ratios . . . give the Japanese the most favorable position, with the Chinese ranking third. The Koreans occupy fifth place. Of the three Oriental groups, the Chinese

<sup>36</sup> *Ibid.* Pp. 211, 213

have been longest resident in Hawaii. They are also most completely urbanized. This has given the children greater opportunities for making contacts, for becoming Americanized, and for setting aside the parental traditions. Since the Japanese system of control is more flexible and adaptable, the children have been controlled better. Some predict that the Japanese delinquency rate will rise as the children become more Americanized and emancipate themselves from the old system of control. The delinquency rate for the Korean group is much higher than that of the Japanese or Chinese. The mere fact of numbers is important. Since the Korean group is small, the young people necessarily make many outside contacts. . . . This condition tends to Americanize the young people rapidly. Hence the children break away from parental control and become delinquent more readily."<sup>37</sup> Dr. Smith does not point out that the Spanish school population is as small as the Korean, yet presents the lowest juvenile court rate for boys, while for the girls the rate is higher than that of the Korean, and double that of the Japanese. He notes, however, that since the alien land laws were passed Japanese have been congregating in cities and that "this shift to an urban environment has exerted an unwholesome influence."<sup>38</sup> In the last analysis, therefore, Dr. Smith's explanation of the delinquency of Oriental groups is based on the social changes incident to a transition from a primary to a secondary type of society.

The persistence of primary group controls is further illustrated by Hayner.<sup>39</sup> In the Bailey-Gatzert school district of Seattle he found for 1929-32 a juvenile delinquency rate of

<sup>37</sup> *Ibid.* P. 214

<sup>38</sup> *Ibid.* P. 219

<sup>39</sup> Hayner, Norman S. "Delinquency Areas in the Puget Sound Region." *American Journal of Sociology*. 39:314-28. November 1933. P. 319

5.7 (based on juvenile court data) although it was in the heart of an area with a rate of 27.7. The district was claimed to show "the highest concentration of homicides, houses of prostitution, unidentified suicides, and cheap lodging houses in Seattle." In spite of these social influences generally associated with high juvenile delinquency rates, the low rate noted above was observed and the explanation was in the author's opinion due to the fact that this district contained a large Japanese population (90% of the school children in the district were Japanese) possessing "the strong family and community organization characteristic of this immigrant group." Data from Vancouver, B.C., add support to this view.<sup>40</sup> Hayner and Reynolds also note that "Chinese children born and educated in America develop attitudes very similar to those of native-born children of European immigrant parents and not basically different from those of the older native stock. These attitudes . . . come into conflict with those of the parents. The nature of the conflict varies according to the individuals concerned; it also varies with the background of the parents."<sup>41</sup>

Lind, in 1930, studied "the role of position and movement in space in the disorganizing processes of the various racial communities in Honolulu."<sup>42</sup> The determination of criteria of disorganization in this immigrant community was found to be difficult because of the conflicting cultural patterns of the Hawaiian, Japanese, Chinese, Filipino, and Portuguese groups, each large enough to sustain or support their respective patterns. "A considerable proportion of the criminal acts

<sup>40</sup> Hayner, Norman S. and Reynolds, Charles N. "Chinese Family Life in America." *American Sociological Review*. 2:630-37. October 1937

<sup>41</sup> *Ibid.* P. 637

<sup>42</sup> Lind, Andrew W. "Some Ecological Patterns of Community Disorganization in Honolulu." *American Journal of Sociology*. 36:216-20. September 1930. P.

as defined by law in the territory prove to be quite normal and desirable forms of behavior as defined by the given cultural code, e.g. suicide among the Japanese, certain types of extortion or graft among the Chinese, and cock-fighting among the Filipinos. These cultural patterns, so well established and recognized among the first generation immigrants are not infrequently accepted by the second generation of the same and other cultural groups as possessing unquestioned validity. Gambling, for example, is an offense for which youngsters of all nationalities are frequently brought into juvenile court, the pattern being taken over from the first generation with whom this pastime is thoroughly accepted."<sup>43</sup>

Where offenders committed delinquencies in association with others, he found that the Chinese tended to associate with each other, while the Japanese often associated with some member of another race group. Such outgroup relations were common in the case of all serious crimes, tending "to confirm the hypothesis that it is the individual who is maladjusted to his own cultural group who likewise fails to accommodate himself properly to the conventional practices of the larger community."<sup>44</sup>

Furthermore, Lind found evidence that in localities or areas where the residents were able to make their conduct standards felt and maintained, wayward persons from these areas tended to refrain "from attempting the violation of the taboos within the boundaries of the district," and to shift "the scene of . . . [their] activity from the disapproving scrutiny of the neighborhood preceptors."<sup>45</sup> Borrowing the concept of the "triangles of conduct" from Park and Burgess he be-

<sup>43</sup> *Ibid.*, P. 208

<sup>44</sup> *Ibid.*, P. 217

<sup>45</sup> *Ibid.*, P. 218



lieved that he found evidence to show that the "neighborhood triangle" was most often found in slum regions, where standards were low, the "promiscuity triangle" with a residential base in well-organized areas, while the "mobility triangle" occupied a middle position. He claimed that there was a progression in conduct from the neighborhood triangle to the mobility or promiscuity triangle types, since 70 percent of the 1926 juvenile court cases studied, involving the neighborhood patterns, later in the same year were involved in a mobility pattern of larceny of a more serious kind.

In another article<sup>46</sup> published the same year Lind furnished data to support the view that a well-organized though culturally different group produces greater conformity in its members than do disorganized and culturally heterogeneous groups. Japanese juvenile delinquents in Honolulu came chiefly from areas where "the Japanese were mixed rather indiscriminately with the rest of the population."<sup>47</sup> In one area, 89 percent Japanese, there were no cases of juvenile delinquency in 1927-28, while in another with 28 percent Japanese in the population, three out of fifteen Japanese school children were brought before the juvenile court. "A similar state of affairs was uncovered as the result of a house to house canvass covering 1,890 persons in a limited area . . . within the zone of deterioration. The isolated camps of a single nationality ranging in size from 25 to 120 persons present a picture of much greater stability and wholesomeness of life than the area at large."<sup>48</sup>

"Judged by the incidence of juvenile delinquency," says Lind, "the racial colony or ghetto apparently provides a more

<sup>46</sup> Lind, Andrew W. "The Ghetto and the Slum." *Social Forces*, 9:206-15. December 1930

<sup>47</sup> *Ibid.* P. 209

<sup>48</sup> *Ibid.* P. 210

wholesome atmosphere for the rearing of the second generation than the neighboring culturally non-descript residential area. . . . The first generation to an even greater degree is dependent upon the understanding and sympathy which the colony alone can afford. In times of crises . . . its function is particularly evident, but its sustaining and restraining influence is apparently never absent from those 'within the pale'. The explanation of the relatively high degree of stability and social solidarity of the first generation immigrant is to be found in the compelling nature of the standards enforced within the racial ghetto. The exodus from the ghetto measures the emancipation of the immigrant from old world morals, with a concomitant enlargement of vision and opportunity for individual advancement, but it initiates as well the process of individualization with its attendant personal and social disorganization. Those racio-cultural groups in Hawaii which have progressed the furthest in the deculturizing process as measured by their geographic dispersion are likewise most disorganized."<sup>49</sup>

Taking 162 boys and girls in Chicago involved in delinquent sex relations (81 cases), chosen from her records of 700 girl sex delinquents in the Cook County Juvenile Court, 1900-31 (practically, 1912-31, since only 20 cases date from the 1900-11 period), Mrs. Crook<sup>50</sup> in 1934 spotted these cases on base maps of the city, noting the residence of each person and the place of the offense. She analyzed each experience in terms of the triangle concept already mentioned. If the boy and girl lived within half a mile of each other but the place of the offense was half a mile or more from the residence of

<sup>49</sup> *Ibid.* P. 215

<sup>50</sup> Crook, Evelyn Buchan. "Cultural Marginality in Sexual Delinquency." *American Journal of Sociology*. 39:493-500. January 1934

each, the spatial pattern was defined as a *mobility* triangle. If the boy lived more than half a mile from the girl but the sex delinquency occurred in or near her home, the pattern was defined as a *demoralization* triangle, and if all three addresses were more than half a mile from each other the pattern was defined as a *promiscuity* triangle. Superimposing upon these triangles, as established on the map, the boundary lines of "language or cultural areas" in Chicago, she was in a position to determine where the points of each triangle fell. They were found "in the *interior*, on the *boundary*, in *interstitial* areas, which are on or near the dividing line between two adjoining language groups, or in *overlapping* areas, where one culture is superimposed upon another or several others, so that the representatives of each are, if not equally divided, at least proportionally important . . . each of the last three involves a 'cultural frontier' . . ."<sup>51</sup> The following tabulation of her findings caused her to conclude that these girl sex delinquents and their partners lived and their sex delinquencies occurred on the margins of cultural areas, geographically defined.

TABLE 3  
POSITION OF TRIANGLE POINTS IN CULTURE AREAS<sup>52</sup>

|              | Girl |      |       |       | Boy  |      |       |       | Place |      |       |       | Grand Total |        |
|--------------|------|------|-------|-------|------|------|-------|-------|-------|------|-------|-------|-------------|--------|
|              | Dem. | Mob. | Prom. | Total | Dem. | Mob. | Prom. | Total | Dem.  | Mob. | Prom. | Total | No.         | %      |
| Interior     | 3    | 2    | 3     | 8     | 3    | 4    | 5     | 12    | 3     | 2    | 8     | 13    | 33          | 13.58  |
| Boundary     | 17   | 13   | 27    | 57    | 19   | 8    | 29    | 56    | 17    | 10   | 28    | 55    | 168         | 69.14  |
| Interstitial | 1    | 0    | 2     | 3     | 0    | 2    | 1     | 3     | 1     | 1    | 1     | 3     | 9           | 3.70   |
| Overlapping  | 7    | 0    | 0     | 13    | 3    | 1    | 6     | 10    | 4     | 2    | 4     | 10    | 33          | 13.58  |
| Total        | 28   | 15   | 42    | 85    | 25   | 15   | 41    | 81    | 25    | 15   | 41    | 81    | 243         | 100.00 |

<sup>51</sup> *Ibid.* P. 497

<sup>52</sup> *Ibid.* P. 499

One of the most interesting studies in this field is that of Mrs. Young reported in her book on the Molokans of Los Angeles.<sup>53</sup> This is a Russian peasant sect, not dissimilar from the Quakers. They settled in a certain area in the city mentioned in 1905-8. The rigid morality of the parent group has been maintained and the author notes that "because of the high degree of homogeneity in the group, a study of juvenile delinquency in the Molokan colony offers social research students almost ideal conditions for a variety of field studies. (1) Molokans are all of one race. (2) They are all peasant sectarians. (3) They have been in Los Angeles about twenty-five years. (4) The majority of the group live in the original area of settlement. (5) The older people have large families. (6) The older men and women are unskilled laborers. (7) In few cases do we find broken homes, that is, homes in which one parent has deserted or has remarried, resulting in disorganization of family life. Such homogeneity in race, nationality, religion, occupation, family organization, and residence offers social research students social conditions which more closely approximate laboratory conditions than is usually the case."<sup>54</sup> In the two fiscal years of 1927 and 1929, 155 Molokan boys, 9 to 19 years of age, appeared in the Juvenile Court, some new, some old cases. They belonged to 108 families who had thirty-three boys of the same ages without a court record, twenty-six men, 20-29 years of age, with, and fifty-one men of those ages, without a court record. Table 4 on page 95 illustrates the progressive nature of the disorganization in these 108 families.<sup>55</sup>

It is to be noted that the group C persons were born in Rus-

<sup>53</sup> Young, Pauline V. *The Pilgrims of Russian-Town*. Chicago: University of Chicago Press. 1932

<sup>54</sup> *Ibid.*, Pp. 201-2

<sup>55</sup> *Ibid.*, P. 203

TABLE 4

BEHAVIOR RECORD OF 265 BOYS, MEMBERS OF 108 MOLOKAN FAMILIES  
(Los Angeles Metropolitan Area Only)

| Age in years   | Delinquent |            | Non-Delinquent |            | Total     |
|----------------|------------|------------|----------------|------------|-----------|
|                | No.        | Percentage | No.            | Percentage |           |
| 9-12           | 15         | 48         | 16             | 52         | 31        |
| 13             | 10         | 68         | 5              | 32         | 15        |
| 14             | 12         | 71         | 5              | 29         | 17        |
| 15             | 16         | 70         | 7              | 30         | 23        |
| 16             | 26         | 95         | 2              | 7          | 28        |
| 17             | 25         | 93         | 2              | 7          | 27        |
| 18             | 31         | 94         | 2              | 6          | 33        |
| 19             | 20         | 83         | 4              | 17         | 24        |
| Group A, 9-19  | 155        | 78.3       | 43             | 21.7       | 198       |
| Group B, 20-24 | 25         | 46.2       | 28             | 53.8       | 53        |
| Group C, 25-29 | 1          | 5.0        | 23             | 95.0       | 24        |
| All ages, 9-29 | 181        | 65.8       | 94             | 34.2       | 275 [sic] |

sia and were brought to United States as young children; the group B persons were born here, as were the group A members, but the last "were born into a social situation in which home control was weakened and social disorganization advancing. They had witnessed the delinquencies of their older brothers, and a delinquency pattern was set for them. Cultural conflict seems to be at its height in this group of boys."<sup>36</sup> Hence nearly all the children of this group were delinquent. The author reiterates that "such factors as race, nationality, economic status, broken homes, dependency, physical condition, mentality, temperamental traits, psychoses, adolescence, and genetic factors have failed to explain the differences in social behavior of the Molokan delinquent and nondelinquent groups. They can, however, be clearly differentiated in terms of their cultural contacts. The evidence points in this study to a direct relationship between the extent of contacts with urban life and the extent of delinquency in this group."<sup>37</sup>

<sup>36</sup> *Ibid.* Pp. 209-10

<sup>37</sup> *Ibid.* Pp. 210-11

It is difficult to refrain from wondering why the other 700-odd families escaped delinquency. Were the contacts of their members with urban life different? Mrs. Young observes that the nondelinquent boys from the families studied appear to have been "more confined at home and more attached to the interests of their parents, they have made fewer contacts with the outside world; they have fewer associates; they remain at home evenings. These boys are the pride of the home and of the community and receive sufficient recognition so that they do not crave it from other sources."<sup>58</sup>

Quite in harmony with the findings of the above students are the delinquency area studies by Clifford Shaw and others, who have found the greatest social disorganization in certain sections of our cities characterized by poverty, poor housing conditions, and bad neighborhood influences. Since immigrants have generally had to settle in such areas upon their arrival, they have been especially subjected to their disorganizing influences. Slums, however, exist more or less in all cities, even where there are no immigrants, and their degenerative influence has been noted in the literature of the last hundred years at least. These areas then create delinquency among the children raised there, no matter who lives in them. They are the product of urbanization. This view is supported by a recent writer<sup>59</sup> who claims that "statistics seem to indicate a higher crime rate for the native born of European stock only because they disregard the various income levels. What their actual crime rate is is still a matter of opinion and it is this writer's hypothesis that all peoples on the same socio-economic level have approximately the same crime rate. . . . The second generation is not a group culturally

<sup>58</sup> *Ibid.* Pp. 212-13

<sup>59</sup> Ross, Harold. "Crime and the Native-Born Sons of European Immigrants." *Journal of Criminal Law and Criminology*. 28:202-9. July-August 1937. P. 208

adrift with neither the culture of their parents nor of their new environment to guide them, but is a group with a very definite culture, a culture of a socio-economic level that is determined by irregular, poorly paid employment and results in broken homes, inadequate educational and recreational opportunity, and a general[ly] stunted environment. And this culture determines for its inhabitants, whatever their nativity, a high crime rate."

Another set of studies presents the effect of the acculturation process in America by comparing the crimes of the first with those of the second generation and those of the native stock. The Immigration Commission presented in 1910 some data to show that there was greater similarity between the types of crimes committed by the last two groups than between the crimes of the first and the second generation. Sutherland<sup>60</sup> has noted the same phenomenon for crimes of violence against persons committed by Italians and their children in Massachusetts; the figures are based on prison commitments and the rates computed without regard to abnormal sex distribution, but the enormously high rates of the foreign-born Italians are nevertheless significant; the rate for the second generation was the same as that of the native stock.

In 1927, Giardini published a report on the Italian Convict,<sup>61</sup> based on a study of Italians in the Western Penitentiary of Pennsylvania. His findings appear to substantiate those of Sutherland's, but his use of percentage distributions instead of rates makes it difficult to interpret his results. The only conclusion could be that the vast majority of the foreign-born Italians were committed for crimes of violence while

<sup>60</sup> Sutherland, E. H. *Principles of Criminology*. P. 117

<sup>61</sup> Root, W. et al. *A Psychological and Educational Survey of 1916 Prisoners in the Western Penitentiary of Pennsylvania. A Report on the Italian Convict by Giovanni Giardini*. Pittsburgh: Board of Trustees of the Western Penitentiary. 1927

most of the second generation and the native stock had been committed for theft.

The most recent of these studies appears to be one by Stofflet<sup>82</sup> based on 3,181 consecutive white admissions to the New Jersey State Prison from July 1, 1928 to December 10, 1934, and 847 admissions, 1925-28, or a total of 4,028 prisoners. In the first group 1,006 prisoners reported that their parents were born in the United States. This group is used by the author as the standard with which other nativity groups are compared. The author classified the offenses of the prisoners into seven classes: homicide, assault, sex, robbery, burglary, larceny, and miscellaneous. Of the 295 foreign-born Italians committed, only 37 were committed for burglary and larceny, while 48 were committed for homicide, 50 for assault, 55 for sex offenses and 39 for robbery. The American born of Italian parentage, who numbered 415, showed only 22 commitments for homicide, 53 for assault, and 42 for sex offenses, while 135 were committed for robbery, 55 for burglary and 26 for larceny. The native parentage, or standard, group showed 39 commitments for homicide, 63 for assault, 137 for sex offenses, 127 for robbery, 246 for burglary and 146 for larceny. Except for robbery, the average ages of the foreign born Italians were significantly higher than the standard, the opposite being true of the second generation in all offenses. Of those convicted for homicide 83 percent of the foreign born Italians, 45 percent of the second generation, and 65 percent of the standard group had no previous convictions. Most of the first generation homicides (33) occurred as a result of quarrels at a drinking party, marital or family quarrels, marital infidelity, or to uphold family honor. Homicides by

<sup>82</sup> Stofflet, E. H. "A Study of National and Cultural Differences in Criminal Tendency," *Archives of Psychology*. No. 185. May 1935



the second generation were rarely for such reasons (6), being usually associated with robbery (11). Assaults show a fairly similar distribution. The Polish groups appear to follow the same patterns. While other nativity groups, such as the German-Austrian, the Hungarian-Czechoslovakian, the British, etc., show slightly different distribution among the offenses, the tendency appears clear that the second generation is committed for about the same type of offenses as are the native born of native parentage, indicating that if imprisonment for crime is any guide, the acculturation process in the United States is clearly evident in the second generation, and that the criminality of the foreign-born shows signs of a "culture conflict" not generated in this country, or due to the differences in the norms of the United States and the norms of the country of origin. The author's conclusions from this study follow:<sup>63</sup>

1. There is a distinct tendency for the character of criminality of various national immigrant groups, as measured by the type of offense committed, to change with the succeeding generation.

2. The direction of shift in character of criminality is away from crimes of violence which are peculiar to the Foreign Born of most national groups and toward the predatory types of offenses which are most common to the native whites of native parentage. The movement, in some cases, carries the criminality of the succeeding generation beyond that of the native whites of native parents.

3. The circumstances under which the crimes of personal violence are committed change from a defense of personal and family honor among the Foreign Born to an attempt at a predatory act among the American Born of Foreign Parentage.

4. The criminal careers of American Born Italians, as indicated by previous convictions, resemble those of the native whites of native parentage.

5. There is no evidence of a tendency for any particular type of crime which might be regarded as a trait of any national group, to persist through succeeding generations.

6. The shift from violent to predatory types of crime is shown to persist for groups of the same economic class and occupational level.

<sup>63</sup> *Ibid.* P. 54

7. The descendants of the Foreign Born show an ability to become Americanized by adopting native patterns of behavior.

8. The Foreign Born criminal groups are, on the average, older than the native born of native parentage groups and the American Born descendants of immigrant groups for the criminal classes considered. The exact relation between age and shift in criminal tendency must be determined from a comparison study made some ten or fifteen years hence, when comparable groups for age will most likely be found in the Foreign Born and second generation populations.

In the studies so far discussed, it is curious to note that delinquency has been chiefly regarded as the result of the exposure of persons coming from a rural or homogeneous culture to the urban and disorganized culture of the United States. While continual references are found to norms, customs and beliefs of special foreign born groups, few attempts have apparently been made to show how they have given rise to criminality.<sup>64</sup> They seem to be regarded merely as complicating factors, which may lead to strife between parents and children, between representatives of the second generation and those of the native stock, and that the emotional tensions, the sense of inferiority, the shame, etc., which such strife may produce find an expression in crime. "The lot of the sons and daughters of some immigrants is a difficult one," says one author. "They stand in a marginal position unable to accept the culture of their parents because it is inadequate for their lives, and yet they are unacceptable to many of the representatives of American culture. This might explain the undue proportion of criminals among the first generation native born."<sup>65</sup> MacIver refers to the "difficult transitional state . . .

<sup>64</sup> One exception is the interesting study by Beynon, E. D. "Crime and Custom of the Hungarians in Detroit," *Journal of Criminal Law and Criminology*, 25:755-74, January 1935.

<sup>65</sup> Monachesi, Elvio. "Sociology and Culture." *Man and Society*. Schmidt, E. P. ed. New York: Prentice-Hall, Inc. 1937. P. 51. Cf. also Myerson, Abraham.

in which the younger generation, finding the ways of their parents despised in the larger community into which their schooling, their work, and their play initiate them, revolt from the family traditions and reject the nearer social controls before they have acquired the discipline of experience. Such a state of disorganization is at least suggested by the prevalence of delinquency among these groups. An undue eagerness to 'Americanize' the children of immigrants may exaggerate the problem."<sup>66</sup>

Levy cites specific cases to show how the struggle engendered by the differences between parental norms and the norms adopted by the child from our culture leads to delinquency.<sup>67</sup> This conflict in the home, or between the home and the community must undoubtedly be important, but hitherto only isolated instances and general impressions have been recorded. Case records gathered by juvenile courts and other institutions dealing with delinquents rarely pay attention to the data needed in the study of culture conflicts peculiar to the immigrant home. Jarrett, in two interesting studies published in 1924 and based on social agency records states that "the records in most cases do not reveal the attitude of the family toward this country and its customs, whether they are antagonistic or satisfied with the conditions here, whether they are ready or eager to adopt American ways, or whether they instinctively or deliberately try to maintain their native practices. The purpose of the family in coming

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"Descendents of the Foreign-born," *The Annals of the American Academy of Political and Social Science*, 151:149-53, September 1930

<sup>66</sup> MacIver, R. M. *Society*. New York: Farrar & Rinehart, 1937. Pp. 109-10

<sup>67</sup> Levy, John. "Conflicts of Cultures and Children's Maladjustment." *Mental Hygiene*, 17:41-50, January 1933

to America and their attitude toward becoming citizens of this country are rarely shown. The attitude of American neighbors and the standing of the foreign family in the community are not often indicated, nor whether or not their friends are all from their native group. The extent to which the native language is used in the home is not reported nor whether the family use books and newspapers in their own language. The degree in which they measure up to the standards of their own nationality or race is not indicated in most cases. The girl's attitude toward the country of her ancestors, whether she feels at home in America or is disturbed by difficulties due to foreign ways of doing things or unfamiliarity with the language, whether she is ashamed of her parents' foreign ways or resentful of their uneducated opinions are not shown. The effect of change from country to city life can not be seen, as the conditions of the girl's early life are not usually described with any detail."<sup>68</sup>

The above comment suggests that more enlightening studies will have to depend on case records compiled by the investigator himself and in sufficient number to make conclusions valid. Such records must be compiled for the specific purpose of illustrating the role of the conflict between parental norms and those of the children or of the American community. Even the undoubtedly rich case records available to Eleanor T. Glueck through the study of *One Thousand Juvenile Delinquents*<sup>69</sup> could be utilized in a recent article

<sup>68</sup> Jarrett, Mary C. "Factors in the Mental Health of Girls of Foreign Parentage." *Public Health Reports*, 39:447-72. March 7, 1924. P. 450. Cf. same author's "Factors in the Mental Health of Boys of Foreign Parentage." *Public Health Reports*, 39:862-83. April 25, 1924.

<sup>69</sup> Glueck, Sheldon and Eleanor T. *One Thousand Juvenile Delinquents*. Cambridge: Harvard University Press, 1934.

merely for an analysis of certain measurable and indirect factors. Comparing 121 native born boys of native parentage with 461 native born of foreign parentage with regard to 49 factors, such as age of youngest parent at marriage, father poor disciplinarian, mother works out, delinquency in parents, mother affectionate, economic conditions marginal, poor neighborhood influences, etc., she found that both groups were essentially similar except that the foreign parentage group showed somewhat greater disparity in the ages of the parents and less schooling for parents and that home conditions seemed better in this group. A similar comparison of 152 native-born girl delinquents of native parentage with 121 of foreign born parentage confirmed her belief that "the children of foreign-parents had more advantages in certain respects than the native born delinquents of native parents."<sup>10</sup> The foreign parentage group showed less mobility while the children were young; the moral standard of their homes was higher as well as their economic condition. On the other hand the girls of foreign parentage used their leisure less effectively and had less supervision and "ran about the streets" more. She concluded that the foreign parentage group had less reason to be delinquent than the native born group and that if their delinquency rate is as high or higher than the latter, it must be partly due to culture conflict "resulting from the differing nativity of parents and children."<sup>11</sup> "Without question" she adds, "this factor of culture conflict in its many ramifications plays a role in the etiology of delinquency among first-generation Americans. Its relative weight in the

<sup>10</sup> Glueck, Eleanor T. "Culture Conflict and Delinquency." *Mental Hygiene*, 21:46-66, January 1937, P. 62

<sup>11</sup> *Ibid.* P. 65

entire causal complex cannot, of course, be established without more accurate knowledge of the proportion of native-born offenders of native and foreign parentage in relation to the incidence of these nativity groups in the general population [but] . . . even should the facts ultimately point to the conclusion that the native born of foreign parentage do not have an excessive incidence of delinquency, the fact that they are more favorably circumstanced in so many ways would still justify the hypothesis that the element of culture conflict in one way or another plays a considerable role in the delinquency of children of foreign parentage, and this regardless of racial composition. . . . Logically these first-generation American children with their special advantages over the native-born delinquents of native parentage, ought to contribute a lower proportion to the delinquent ranks than the others."<sup>72</sup> On the nature of these culture conflicts Mrs. Glueck sheds no light but states that "what the components of this factor may be will have to be determined by those who work closely with first-generation Americans, and should be the subject of fruitful research."<sup>73</sup>

Poverty in the home, a broken home, delinquency on the part of parents, etc., etc., are not in themselves important in this connection. The research student must find to what extent these factors are specifically created wholly or in part by the *cultural* heritages of the immigrant. If the immigrant's conduct norms are different from those of the American community and if these differences are not due to his economic status, but to his *cultural origin* then we can speak of a conflict of norms drawn from different cultural systems or areas. Such conflicts may be regarded as *primary* culture conflicts.

<sup>72</sup> *Loc. cit.*

<sup>73</sup> *Loc. cit.*

They may in turn aggravate the disorganizing factors in the social environment by forcing an immigrant into lower-paid occupations, bad neighborhoods, etc., which in turn may have etiological importance in abnormal conduct, regardless of the nativity or the cultural origin of those subjected to them.<sup>74</sup> The conflicts of norms which grow out of the process of social differentiation which characterize the evolution of our own culture may be referred to as *secondary* culture conflicts. The primary conflict may be best observed in the foreign-born group, although where this group is very cohesive and large it may be easy to discern in the second generation. We are told, for instance, that "the immigrant brings with him a set of habits of thought and behavior built up from earliest infancy in an environment many of whose characteristics are entirely at variance with law and customs in the United States. This divergence is particularly noticeable in regard to gambling, prostitution, carrying weapons, and the manufacture, sale and consumption of liquor. The laws of this country relative to these matters are entirely different from those effective in the nations from which many of the immigrants come."<sup>75</sup> These views are repeated by many others. The carrying of weapons is said to be customary in Mexico, Southern Europe, and Finland, for instance, attitudes toward prostitution on the Continent and in Asia differ from ours, gambling is "natural" to the Oriental, Mexican, and many European groups, family honor is differently conceived by Americans as compared with some other groups, the relationships of the unmarried of both sexes likewise.<sup>76</sup> The high homicide rate

<sup>74</sup> Cf. Reuter, E. B. "The Sociology of Adolescence." *American Journal of Sociology*. 43:414-27. November 1937. Note particularly p. 419

<sup>75</sup> Davie, Maurice. *World Immigration*. New York: The Macmillan Co. 1936. P.

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<sup>76</sup> Cf. the various studies cited, as well as such works as Woolston, Howard B.

among some foreign-born groups, the rates for arrests in the case of gambling, commercialized vice, narcotic violations, liquor law violations, etc., appear to illustrate these assertions, but no studies of any special significance have been made to explore in some detail the questions they raise.

The persistence of parental norms transmitted to the native-born children have frequently been stressed also.<sup>77</sup> Some of the studies reviewed in this chapter refer to it, especially those of Hayner and Lind. The low delinquency rates of the Japanese ghettos are explained as due to the strength of the moral fabric of the Japanese home. It should be remembered, however, that a racial ghetto is not comparable with just any delinquency area, that race segregation means the mixture within an area of families of widely different education, economic status, etc., and that where the ghetto is so small that economic segregation within the ghetto has not been clearly accomplished, as has occurred, for instance, in New York's Harlem district,<sup>78</sup> delinquency rates from such areas do not tell much. Studies based on adequate case records are necessary here as well, before it is possible to assign its proper role to the culture conflict in the second generation due to the persistence of parental norms. So far the evidence seems to point to the fact that it is not significant in comparison with other factors in delinquency, but it may well be of great importance in certain nativity groups.<sup>79</sup>

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*Prostitution in the United States*. Vol. I. New York: The Century Co. 1921. See also Panunzio, Constantine. "The Foreign-born and Prohibition." *The Annals of the American Academy of Political and Social Science*. 103:147-54. September 1932

<sup>77</sup> See especially Young, Pauline V. "Social Problems in the Education of the Immigrant Child." *American Sociological Review*. 1:19-29. June 1936

<sup>78</sup> Frazier, E. Franklin. "Negro Harlem: An Ecological Study." *American Journal of Sociology*. 43:72-88. July 1937

<sup>79</sup> A good summary of the data on the delinquency of the second generation is found in an unpublished dissertation by Dorothy Krall *The Second-Genera-*



We have tried to show that the concept of culture conflict has been so formulated by some scholars that all sociological research on crime causation may be conducted within its framework. This is its weakness as an operational concept. We have noted that in the study of conduct it is necessary to think of culture conflict as a *conflict of conduct norms*, that such conflict may arise as a result of a process of group differentiation within a cultural system or area, or as a result of contact between norms drawn from different cultural systems or areas, and that we may study all such conflicts either by the investigation of persons in whom the conflict is assumed to be internalized or by a study of violations in groups or areas within which it is assumed that such conflicts occur. We have furthermore stressed that the study of the conflicts of norms of divergent cultural systems would be especially valuable in this connection. Finally, an analysis of some studies which have been concerned with the role of "culture conflict" in the causation of legal violations has shown us that we have no clear picture of this causative element. Further research is obviously needed.

#### SOME RESEARCH SUGGESTIONS

Since we are concerned with the role of the conflict of conduct norms in the etiology of norm violations it becomes obvious that we must establish in the persons or groups studied (1) the existence of a norm conflict (within personality, within a cultural group or between norms of two groups) and (2) the violation of a norm involved in this conflict, before we can determine the relationship of the violation to the presence of the conflict. Where no norm conflict exists, violation of the

unique norm governing such a life situation must be explained in other terms.

The nature of the conflict must be determined. If, for instance, we should attempt to discover the relationship to delinquency of the conflict of norms which may be assumed to arise when an immigrant group from another continent settles on our shores, we should like to know (1) the character of the receiving group's legal norms which this migrant group is expected to obey (2) whether or not these legal norms are also legal or nonlegal norms in the migrant group (if the migrant group possesses legal or nonlegal norms identical with the legal norms of the receiving group, no norm conflict exists) (3) if the migrant group possesses no norms at all governing the life situation covered by the law of the receiving group (if so, no norm conflict can occur either, but in such an instance it may be permissible to consider the violations by the migrant group of the law of the receiving group as related to what might be called *cultural unilateralism*) (4) the character of the norm conflict (a) does it occur only between legal norms identical in both groups and an antagonistic conduct norm, peculiar to the migrant group? (if so, the conflict is confined within the latter group) (b) does it occur between legal norms which are different for the two groups, although the nonlegal conduct norms governing the life situation in question are identical in both groups? (if so, a conflict of laws or of legal norms is involved) (c) does it occur between a nonlegal conduct norm in the migrant group and a legal norm in the receiving group, the former possessing no legal norm governing the life situation involved? We would, then, be compelled to analyze the violations of the legal norms of the receiving group by the migrant group in the light of the various forms of conflict indicated.

Furthermore, in the study of the relation of violations to processes of acculturation and inculturation which begin to operate as soon as the migrant group settles down, we would have to consider the resolution of the conflict or its intensification in relation to retarding or accelerating factors peculiar to the migrant group by virtue of its social status as defined by the receiving group. The technical difficulties in such a study are clear to all careful students. The groups studied must be composed with the utmost care; their conduct norms examined and their violations<sup>80</sup> measured with equal care. Adequate control groups must be used. Much more effort must go into the planning of the research than has customarily been the case. It must be remembered that some of the most elaborate researches in criminology have been characterized by extensive technical analyses of data drawn from material assembled on the basis of such carelessly formulated classification that the final results have been meaningless.

#### I. CROSS-SECTIONAL STUDIES

- A. Comparative studies of *typical* norms which in *different* social groups govern conduct in life situations involving, for instance, the defence of personal honor, the taking of life, the relation of the sexes, marital relationships, parent-child relationships, the appropriation of the property of others, the relations of the person to government, etc. Such questions as the following would arise: What extralegal and legal norms govern these situations and how are conflicts among these norms related to the violations of the legal norms? Are

<sup>80</sup> Cf. the analysis of the problem involved in the measurement of legal violations in the writer's chapter on "The Index Question" in *Research Memorandum on Crime in the Depression*. New York: Social Science Research Council, 1937.

such conflicts associated with certain life situations, more than with others? Is the intensity of the conflict greater in some situations than in others? What conditions are related to the presence or absence of conflict?

- B. Comparative studies of *different* social groups in order to establish all or specific norms which within each type of group are in conflict with one another, or with the norms of some other group. The purpose would be to determine the nature and the intensity of such conflicts, their relationships to law violations, the conditions associated with the presence or absence of conflicts, etc. For instance, the professional criminal group, which possesses norm complexes definitely in conflict with the law, migrant groups from different culture areas, occupational, professional, trade, religious, racial groups, etc., might be so studied. Specific problems might be attacked, such as the following:

1. It has been generally held that the second generation of a migrant group is more delinquent than the receiving group and that this is in part at least due to "culture conflict." Many studies are needed to determine the nature, extent, and relationship of such delinquency to the conflict between parental norms and the norms of the second generation.  
(1) If other factors than parentage are held constant, is the second generation of a specific migrant group (rural-urban migrant, immigrant group from a specific culture area) more delinquent than a control group of different parentage? (2) Is the lower commitment rate in many states for the second generation of immigrant stock associated with differences in cultural origin of parents or with

differences in the social environment? (3) Why is the mixed parentage group characterized by such low commitment rates? Until recently this group was assumed to have the highest rates due in part to conflicts between the norms of the parents. Are all types of mixed marriages involved or are some more provocative of conflicts than are others, and, if so, are the children of these latter more likely to be delinquent than those of the former? As mixed marriages in this connection we might well consider not only the marriage of persons of different nationality or different races, but of different cultural levels or groups.

2. It has been claimed that a person who is maladjusted to his social group is also likely to be maladjusted to the larger community. This is not likely to be true under all conditions. Studies should be made to show the limits within which the generalization is accurate.
3. The same holds true for the claim that a well-organized, homogeneous social group restrains its members, thereby holding delinquency within the group at a low level and causing those who commit violations to do so outside the group or in association with nonmembers of the group.
4. If two groups (rural-urban, different migrant groups, etc.) possess the same legal norms but widely different rates of violations of those norms, is the difference related to more or stronger conflicts between extralegal and legal norms in the one group than in the other or to other factors?
5. Does a selected sample of a migrant group reveal,

through case studies, more norm conflicts than does an appropriate control group composed of persons drawn from the receiving group or the home group?

6. What differences exist in the type and the motivations of violations committed by rural, as compared with urban groups in the same culture, as many factors as possible held constant?
7. The same question may be raised in comparing migrant groups with control groups in the home area and in the receiving area.
8. Are laws which contain widely accepted norms more frequently obeyed than those that have only minority support? Do members of the minority in such instances violate the law more frequently than the others?
9. Is the migrant group more delinquent immediately *after* the migration than *before*?
10. Is the migrant group more delinquent in the receiving area than a control group that remained at home? These questions (9 and 10) may be answered by studies of specific migrant (for instance, rural-urban) groups within a country, etc. Conflicts of norms must be segregated from such other factors as differentials in age and sex distribution, economic status, etc., which may be more important in explaining the violation rates.
11. We need more studies of social groups who exhibit a minimum of norm conflicts. Who commits violations of norms within such groups? Is it those who have had most extragroup contacts, the migrant from other groups, the biological deviate? Studies

of groups with homogeneous norms in this connection should aid in understanding the problems of norm heterogeneity.

## II. HISTORICAL STUDIES

1. The conflict which occurs when the legal norms of one group are extended over areas formerly not cognizant of them, may be assumed to induce violations of these norms by persons living in the subjected area.

Except for casual references in ethnographic works, works on colonial jurisprudence, etc., little is known of the processes and the effects of the conflict referred to. Unfortunately, studies on problems involved here would ordinarily have to be made long after the moment when the extension of jurisdiction took place. Nevertheless, light on the role of norm conflict and its resolution could no doubt be gained from historical researches involving the extension of British law in India; French, Italian, British and Belgian law in Africa; Spanish law in South and Central America; the law of the United States over American Indians, Hawaii, Samoa, etc.

2. Do migrants become more criminal or less criminal, the longer they reside in the receiving area? How is this related to the type of area of origin and the type of receiving area? How is it related to the character of the violation and the type of norm violated? Is the process more rapid in some types of receiving areas than in others?
3. It has been stated (see p. 62) that norm conflicts may be endogenous, or exogenous, i.e., they may arise

within a group which undergoes more or less rapid socio-economic transformations as a result of the effects of inventions, a variety of environmental pressures, etc., which create new life situations requiring social definition, or they may be introduced from without the group. In the process of the cultural change, which any migrant group undergoes in the receiving area, what role in the conduct of its members is played by norm conflict spontaneously developed within the group as compared with those of exogenous nature?

4. What norm patterns in the migrant group show the greatest resistance to change or modification? Are they rooted in specific types of life situations or associated with specific types of institutions? Conversely, which norms are most easily modified and which are not? In what manner is this persistence of norms related to violations of the norms of the receiving group?
5. It is claimed that rural rates of norm violations tend to approach the urban rates as definitely rural areas are invaded by antagonistic norms growing out of the heterogeneous urban culture. Is this true?
6. It is claimed that violation rates by the migrant group tend to be higher for those who live on the border of or between culture areas, since conflicts of norms would be most intensive or would first arise there, rather than in the interior of the migrant area. This claim requires further investigation not only for language or culture areas in various communities in the United States with divergent migrant groups, but in European countries and even



in the border counties of our states in the case of offenses, for instance, which carry different penalties in the two states involved.

7. The second generation of migrant parentage is said to approach the receiving group in type and motivation of violations rather than the parent group. This is interpreted to show the effect of a disappearance of the conflict of norms assumed to account for the type and motivation of offenses committed by the parent group. Very few studies exist on this problem. To what degree is the difference due to age differentials in the two groups?<sup>21</sup> How do violation rates, by type of offense and motivation, of the second generation of migrant stock compare with the violations, etc., by a *control group* in the place of the parents' origin?
8. If migrants, with given norms, settle among people with different norms, the conduct of the latter should in the life situation concerned be affected, if they become acquainted with the migrant's norms. Does this actually happen? Hitherto no studies known to the author appear to have paid attention to this problem.
9. Related to the above question is the following: When a homogeneous group, such as a rural group, inculturates conflicting norms, do violations of the old norms rise? Conversely, when in a group with heterogeneous norms certain norms achieve increasing dominance, do their violations decline?

These research suggestions are offered in the hope that they

<sup>21</sup> Cf. Taft, Donald. "Nationality and Crime." *American Sociological Review*. 1:724-36, October 1936

will stimulate inquiry. They refer to but one of many lines of attack on the general problem stated in the opening paragraphs of this chapter and presented in greater detail in the second chapter. They are offered with diffidence to scholars who may gain from them some direct aid or who may be able to draw from them other ideas for appropriate research projects which will in their aggregate give greater precision to our knowledge of the etiology of abnormal conduct.