

## **KBD 14: City Service 1916 & 1917 -- Parole Panel**

Long an advocate of indeterminate sentencing, Correction Commissioner Davis lobbied, with other Progressive reformers, for legislation to set up a New York City Parole Commission. That no other city in the nation had such panel did not deter Davis the slightest. Katharine, in fact, viewed that situation as an opportunity for New York City to show national leadership and to create a model that other municipalities might adopt and adapt to their local needs.

Indeterminate sentencing, with possible parole as an incentive for inmate efforts at rehabilitation, had been a principle of Progressive penology for decades. The innovation Katharine championed was the principle's application on the municipal level. Commissioner Davis devoted a section of her own first annual report to recommending establishment of a parole panel. With the mayor's support, she worked with legislators drafting bills to set it up.

### **Correction Commissioner on Parole Panel**

Advocates of new governmental approaches to old social problems often find the laws eventually enacted fall short of embodying all their recommendations. So it was for Davis with the parole panel. The law authorizing the city to launch the panel in December, 1915, gave the commission decisive powers in matters of city workhouse and reformatory inmate release. But the law limited the panel to concurrent power with the sentencing judge in matters of penitentiary inmate release. In penitentiary cases, release on parole before the three-year maximum required the sentencing judge's concurrence in the parole panel decision.

Davis surely would have preferred the arrangement that the law applied in workhouse and reformatory cases. In those, the sentencing judge could sit as one member of the commission and that judge's vote would be counted equal with each other parole panel member's vote. The regular panel consisted of three full-time members — chairperson Davis, Bertan DeN. Cruger and Alexander McKinny — and two ex-officio members, Police Commissioner Arthur Woods and Correction Commissioner Burdette Lewis, Davis' former deputy.

Prior to the city parole law, only convicts under 30 years old sentenced to the reformatory for certain offenses received indeterminate sentences not to exceed three years. Penitentiary sentences were definite terms under a year. Workhouse sentences were definite sentences of usually six months or less. The nature of the offense and age of the inmate determined who went to the reformatory, penitentiary or workhouse. The 1915 law ended the definite term aspect of city penitentiary and workhouse sentences, and eliminated the payment of fines as an alternative to incarceration. It substituted sentences for an indeterminate period not to exceed three years for all penitentiary inmates and an indeterminate period not to exceed two years for workhouse frequent repeaters.

#### **'Inmate Chalking Off Days Vs. Exerting Himself'**

The arguments about definite versus indeterminate terms were much the same then as they are today, relating to issues of rehabilitation and recidivism. Davis summed up the complex question with her usual easy-to-understand folksy style:

*The average offender hates the indeterminate sentence. He would much rather know in advance just what time he is in for, and then sit down and chalk off the days, instead of exerting himself to win free time by industry and good behavior.*

*Having been committed to the institution [under definite term sentencing], there was [for the inmate] no very great incentive for industry or good conduct. The men who wasted material in the shops, who destroyed or were careless in the use of tools, who loafed and did as little work as possible, were on a par with the industrious men — and there were such — who worked more nearly as they would if working outside the prison . . . On their release, prisoners were frequently penniless, with no jobs. . . Men and women who were diseased had to be released, even if it were known there would be little likelihood of their continuing the necessary treatment. In short, it was practically impossible to employ real reformatory methods . . .*

Rather than being an empty-the-prisons mechanism, the city parole law meant many more getting sentenced for longer terms.

The emphasis was not early release; it was earned release.

But to make the program work, post-release support was needed. Through her vast network of contacts, Davis was able to set up a wide array of groups, businesses and institutions willing to help city parolees find jobs, housing, training or treatment, as needed. She enlisted such philanthropic organizations as the Prison Association, the Chrystie Street Settlement, the Up and In Club, and the New York City Club to help.

Davis personally interviewed hundreds of inmates, reviewed their files, and conferred with wardens, keepers, chaplains and others who might provide insight on the individual inmates. It was the kind of direct contact research she relished. Other panel members did likewise.

Chairperson Davis argued that this careful study by panelists separately, with the results being reported to and reviewed by entire the commission, offered more hope for fitting the punishment to the particular criminal than the one-definite-term-fits-all approach. The sentencing judge, sitting alone and hearing scores of cases daily, simply could not be expected to provide that personalized attention.

At various junctures during her two years heading the panel, Davis reported figures showing dramatically reduced recidivism rates among parolees in comparison with similar periods under the old system of shorter definite terms but more frequent re-commitments: under 10 percent recidivism among penitentiary parolees compared to 33.3 percent among definite termers. Among workhouse inmates, the parolees' recidivism rate cited was about half that of released definite termers.

During her tenure as chairperson, Davis established its procedures on such a firm foundation that the Commission continued operations for half a century, well into another fusion administration, that of John V. Lindsay, when state law once again limited city sentences to no more than one year.

#### **Was Parole Post a Comedown for Davis?**

Davis' appointment to head the Parole Commission prompts interesting speculation whether Mitchel was somehow trying to move her to the background. At least one writer hints Katharine may have preferred to continue running DOC but, in loyalty to



**Drug ward in Women's Workhouse on Blackwell's Island from Davis annual report.**

Mitchel and wishing to preserve unity of support behind him, accepted the less powerful parole position. Not that Davis had mismanaged DOC or had caused any scandal; rather she had become a political lightning rod, an easy target due to her high visibility, one inclined to hurl back as many bolts as received, if not more. According to this theory, the parole post was a kind of remote grazing land away from the line of political crossfire.

The putting-Davis-out-to-pasture explanation of the parole appointment has several weaknesses.

The first of these is the assumption that Mitchel regarded city parole as minor league. On the contrary, there is reason to believe that the mayor counted it among the top accomplishments of his administration. As Election Day 1917 approached, the Mitchel administration was invited by the *Post* to participate in a series on "Fusion's Achievements," with articles written by members of the administration and leaders identified with the Fusion movement. A lengthy article by City Parole Commission chairperson Davis about its work was the eighth in the series.

Secondly, this bold initiative in municipality parole was the first of its kind in the country. Mitchel needed as its chairperson a professional with a national reputation whose participation would lend credibility to the experiment. He had that kind of person at hand in Davis.

Thirdly, because it was such a sensitive experiment, one that if mismanaged could backfire politically since it involved release of criminals onto the streets, Mitchel needed someone he could trust to keep the operation under tight control. Again, Davis was the right person for the job.

If, by moving Davis over to Parole where he needed her stature, expertise, energy and firm hand more immediately, Mitchel

also drew additional benefits from getting her off the daily political firing range, count that as bonus.

Certainly there was nothing in his parole appointment words of praise for her Correction performance to suggest any lessening in his admiration and appreciation of her. She also retained high marks with the press. Typically, the *Tribune* hailed the appointment:

*[Miss Davis] has brought the city's penal institutions to a stage of modernity in theory and practice hitherto unattained, and the public is the gainer thereby.*

*In this new work, Miss Davis . . . to a large extent, will be a pioneer, for though the parole principle is no new thing, the application of it to the inmates of the penal institutions of a great city is new, and will have many practical difficulties. . . Miss Davis may be trusted to go about the work sympathetically — not with mawkish sentimentality, but broad humanitarian spirit in which such a task must be approached if it is to have any chance of success.*

Davis herself regarded the work involved, if not the position itself, as the most important of her life up to that point. "It is the biggest thing I have yet undertaken," she told the *Times* reporter her second week as city parole chairperson, adding as an afterthought that she didn't mean the biggest in the way of an official appointment.

Clearly she recognized that, as an agency executive position, Correction Commissioner was a "bigger" post than City Parole Commission chairperson in terms of day-to-day power. But the challenge of establishing a City Parole Commission where none had ever existed before in the nation — that was for her "bigger" in terms of potential to make history and perhaps change its course, in this city and possibly in other cities. Since what she launched — an indeterminate city sentencing structure that included the parole panel — impacted upon the life of the city for half a century, she may well have been correct in assessing the task "the biggest thing" she had yet undertaken. According to its 50th anniversary report issued June 20, 1966, "more than 200,000 prisoners have had the benefit of this rehabilitative assistance."