

[Mar. 8, 1950]

McGEE: I think that, as I indicated in my remarks here, that the soundest and wisest thing that can be done is to develop a good respectable research program. Now, whether that should be—

FLEURY: Do you think that should be handled through your office or Mental Hygiene or where?

McGEE: I have no final opinion about that. I would say that it doesn't make any difference where it is done, or who does it, as long as it is done and done competently. The reason it was suggested that it be put in that way was because the Board of Corrections, which has the Youth Authority and the Adult Authority and myself and the Women's Board on it, is also a Crime Commission under Section 6027 of the Penal Code and has a responsibility of studying the causes, the cures and methods of dealing with crime. The matter was discussed with Dr. Tallman and with Karl Holton and we all agreed that if the funds were provided that we would work the thing out on a cooperative basis and get it done, the best advise we could get indicated it should be done. It was just a question there of setting the thing up in a place, some legal authority for it, and some place to administer the funds because if you are going to appropriate funds you are going to have to appropriate them to some executive agency. It could be handled in many ways. The thing that I have done here, for your information, in the respect to this matter, the suggestion was made when this bill came up on the Senate side, where Senator Keating introduced it, was that it ought to be put in the budget, it shouldn't be brought before them in this special bill. I discussed the matter with some members of this committee, as a matter of fact later on, when I saw that, I hadn't talked to the Governor about this, but I saw in the press, and I have heard him say publicly within the last 24 hours, that he intended to place this matter on the agenda for the Special Concurrent Session in March. Therefore, I merely wrote a memorandum to the Division of Budgets and Accounts in the Department of Finance and told them I thought we had a responsibility to see that this matter got before the Legislature but that I wasn't placing it in the budget, I was leaving it entirely to the legislative committees to say where they thought the thing ought to be and that is still the way I feel about it. I think whatever program is suggested by this committee is going to be all right with me and the other department heads provided we feel that the recommendation is going to result in the program.

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STATEMENTS AND REPORTS

STATEMENT OF MARCUS CRAMAN, M.D.

Senior Physician, Los Angeles County Jail Division, Sheriff's Department; Superior Court Panel; Mental Hygiene Panel; Faculty University of Southern California; Chairman, Los Angeles City and County Committee on Sex Variance.

There is a common misconception among public officials that all sex violations are perpetrated by homosexuals. There is also a general misconception on the part of the American public that any evil is easily eliminated by the simple procedure of passing a law against it. A third largely erroneous concept demands "treatment" for sex offenders and the persons or groups loudest in their demands for this evanescent process know little of what they speak.

Crimes against sex differ little in their motivation from other crimes against the person, or, for that matter, against property. Certain unacquired bases of the instinctual life, apart from environmental influences, must be in part responsible (depending upon the makeup of the individual), for the fact that similar emotional conflicts will result in either criminality or neurosis, or both.

The emotional conflicts of childhood, the resentments against parents or brothers, the enforced passivity of educational rigidity, all represent powerful allies of later resentment against the social system, and the combined emotional tension thus produced seeks a realistic expression in criminal acts that cannot be relieved by mere phantasy products, as in the neurotic.

In every criminal act, two factors are involved: one constant and one variable. The variable factor is psychological and multitudinous and this motive factor may be as variable as unconscious motives in general. The constant factor is that force which propels the criminal move itself, and relies on the dominance of his passive or aggressive balance. This is the mechanism of criminosis.

Most criminals, oddly enough, become such from a pervading sense of passivity, and their aggressive acts are a revolt against this passive state. Passivity is predominantly feminine, as is aggression masculine. The passive, timid, retiring personality is considered sissified and his humiliation against the repression of his native aggressive instincts creates a restless pressure of energy within him, which finally shatters the hitherto restraining forces to become an exquisite expression of masculine aggression.

This expressive action will be directed against that sense of inadequacy that has most piqued the individual. Thus, the homosexual may commit murder: the sexually immature will perpetrate violent rape; the mild mannered will attempt armed robbery. The senile alcoholic, robbed of his sexual prowess, will force his enfeebled body on equally feeble children, whose ages are always in inverse proportion to his own.

The acts of the sadist are usually primarily psychopathic rather than criminal, per se, as their violence is destructive, whether sexual or otherwise. The masochist, however, is very frequently overlooked in criminal appraisal. In this type of mind, that offers itself on the altar of sacrifice, we find the check-writer, car thieves, many burglars, many juvenile delinquents, and those who publicly molest women on the street.

An inner desire for punishment prompts many of these acts, as is so obviously demonstrated by the many too obvious means of identification left along their overt trail. The masochist also is the frequent criminal who, after long search has failed to bring him within the toils of the law, gives himself up. Masochism accounts for much recidivism among criminals.

In crimes of violence, the essential is not that the perpetrator be weighed as sane or insane—his act is clearly lawless and antisocial, and as its result, he is not fit to be at large. Guilty or not guilty—sane or insane—are largely matters of tweedledum and tweedledee. Friends, counsel, experts all converge to distort the true relationships. We still think in terms of the McNaughton case of 1843, when legal insanity involved a very complete degree of mental disintegration.

Fortunately, the barriers between the great classes of "criminals" and "lunatics" are falling away and we are coming closer to the necessity of determining the precise psychological characteristics of each individual and the treatment to which each should be subjected. Our prisons and asylums are alike in being places where certain abnormal people must be confined in their own interests and those of society. It is but a short step to fuse both in the management of the criminally ill. To send two murderers to two separate institutions because of a difference in the motivation of murder is plainly stupid. The hospital for the criminally insane should be a part of our penal structure, inseparable from it. If this were incorporated within the walls of our present penal institutions, the medical, psychological, psychiatric and social anthropological workers would be easily within the reach of those other so-called "normal criminals" who are so closely their blood brothers, and who equally need scientific study and help if they are to be at all reformed.

Section 5500 of the Welfare and Institutions Code, relating to sexual psychopaths, has caused considerable miscarriage of justice in the past, because it was used by defense attorneys to circumvent penal servitude and the definition so restricted medical examiners as to compel a declaration of sexual psychopathy where none actually existed. The courts were frequently advised by examiners to disregard their opinions in this section because state hospital authorities felt that their facilities were being misused by having to accept this type of offender and either resolved to keep him for life, or to release him at the earliest opportunity, admitting that he was not cured but that further hospitalization would be of no value.

This section has been amended in Chapter 1325 of the 1949 Statutes, particularly in Sections 5517 and 5518, providing no such loopholes and providing for the defendant's return to the court under conditions of cure or failure of cure. This chapter, called the Fleury Bill, while a great improvement over the earlier section, fails in any manner to define the sexual psychopath and leaves such definition to the broad discretion of the court and its examiners. The term sexual psychopath has not as yet been satisfactorily defined, either by statute or as a medical definition.

An attempt was made at the Governor's Conference on Mental Hygiene, at which the speaker offered minor suggestions. The definition that comes closest to being correct is that in the Vernon Kilpatrick Bill, known as Chapter 1457, an act to add Chapter 4.5, comprising Sections

5600 to 5607 to Part 1, Division 5, Welfare and Institutions Code, relating to the commitment, care and treatment of mentally abnormal sex offenders. This act is in the nature of a voluntary commitment but is in no sense a loophole to prevent punishment for offenses awaiting trial. The act permits immediate blood relatives alone to file for commitment and should be broadened to permit others possessing information to file as well.

There should also be a provision requiring the district attorney to employ psychiatrists preliminary to actual commitment. The act as it now stands is, however, the most forward approach yet enacted and Mr. Kilpatrick and his committee are to be congratulated on a job well done, a year in advance of our present hysteria. More important than the enactment of additional legislation, is the education of the public to the necessity of cooperating with law enforcement agencies.

It has been the well-considered opinion among peace officers for several years that only 20 percent of rape and molestation offenses were being reported. This has been proven by the public reaction to the Glucoft case presently in the news. Since that case broke every policing agency in Southern California has been deluged with complaints of sex violations, most of these being old offenses not previously brought to light. There actually is no increase in the perpetration of these offenses, as shown in the present fiscal year when compared to 1947 and 1948. Creating a closed court with people in attendance familiar with child psychology could do much to bring parents to better cooperation with authorities.

In addition to public awareness of its responsibility, it is important that children from ages six to fourteen, manifesting evidences of abnormal tendencies, be brought to the attention of medical personnel through education of the teachers. This was one of the principal recommendations of the Committee on Sex Variance after an 18-month intensive study of this community. The committee was composed of religious leaders, civic organizations and public officials, including Mr. William Simpson, District Attorney; Sheriff E. W. Biscailuz; Judge William D. McKay; Judge Arthur Guerin; Mr. Don Sanson, Public Defender's Office; Ellery Cuff, Public Defender; Don Redwine, City Attorney; Chief William Bradley, Los Angeles Police Department; Rabbi Edgar Magnin; Bishop Stevens and Bishop McGucken, as well as the heads of the county and city school systems and the California Youth Authority.

One of the most difficult problems of that committee was the development of teachers to teach the teachers on the physiologic and psychic stigmata in children before it was too late. The method of approach to this problem has not as yet been solved.

The importance of the epileptic must not be underestimated and every behavior abnormality with a history of trauma should be given the benefit of an electroencephalogram, in conjunction with a psychiatric study. A man walking around in a somnambulistic fugue state is a potential murderer from whom society and his family are entitled to protection.

The speaker believes that the present tests of legal sanity are adequate and should not be broadened. The irresistible impulse theory is already met by the test of insight. The inclusion of mentally defective offenders among the nonresponsibles deserves consideration.

In the interest of thoroughness in examination, it is suggested that the fees of court appointed examiners are below similar fees elsewhere and should be increased to at least \$50 per appearance. The time consumed on the present basis does not permit of frequently essential psychometric tests, electroencephalograms or pentothal interview, which should be permitted on a special fee basis.

There are thousands of veterans definitely psychotic and violent not accepted at veteran hospitals on an involuntary basis until civilly committed. There should be a meeting of minds in which a service-connected psychosis are accepted by the Veteran's Facility, without the necessity of a civil arrest and public stigmata resulting from appearance in a state court. There should be no reason for California assuming a responsibility definitely military and this happens almost daily in our courts.

The speaker's time was too limited to permit more complete presentation of the suggestions offered. In summation and in reasonable order of importance therefore, he lists the following for your consideration.

I. The adoption of the term "Mental Prison" as of tremendous semantics value for many reasons of security and public satisfaction.

II. That a perpetrator of a sexual crime should be viewed with little difference than any other violent aggressor.

III. That there is presently little known concerning cure of sexual aggressors and that placing them in private institutions does not help in most instances and gives the public the impression of coddling.

IV. That the indeterminate sentence under maximum security conditions until rehabilitated argues for greater public safety than either a set prison term or indeterminate care in an easily fled hospital.

V. That parents should be protected from public exposure of their children by closed, humane procedures.

VI. That our universities should supply recognized experts and rational curricula in training our teachers in recognizing sex abnormalities while their charges are still malleable.

VII. That an abnormal mental offender is first an offender and only secondarily a mental problem.

VIII. Parole of mental patients to their relatives should be restricted to those families intellectually and economically equipped to continue adequate protection and observation of their charge.

IX. That adequate use of examining media be encouraged by proper compensation of examiners.

X. That Veteran Facilities be held responsible for known psychotics being released upon the public.

STATEMENT OF FREDERICK J. HACKER, M.D.

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Outraged by the recent wave of sexual crimes, an excited public demands effective measures for the protection of their loved ones. Nothing is more understandable and yet, unpopular as this may be, it has to be stated unequivocally that neither lifelong imprisonment of known sex offenders, nor castration, nor forcible registration of people with sex deviations will get us one inch closer to the solution of our problem.

When psychiatrists, some judges and other far-sighted individuals urged years and decades ago that only treatment, not punishment, could contribute to the control and disappearance of psychopathic crime the public indicated by its total lack of interest in these suggestions that they felt better protected by the old-fashioned punishment methods rather than by the newer treatment attempts. The present psychopathic crime wave underlines the breakdown of current law enforcement methods and it is not reason, but the delusion of mass hysteria that advocates as the only solution yet greater strictness in the application of a clearly inadequate system.

Though the specific problem of sex crimes has aroused the justified ire of the public, the question of effective handling cannot be considered in isolation, but only as part and parcel of a general mental hygiene program. The present wave of popular excitement, indignation and horror of the heinous crimes recently committed cannot change the fundamental truth that the sex criminal is usually dominated by an irresistible impulse. This should be stated once and for all for the sake of scientific truth no matter how much this concern for effective prevention measures may clash with the desire for vengeance.

This does not mean by any stretch of the imagination that the community has not the full right to be protected from individuals who endanger their fellow citizens and particularly helpless children due to their disturbance or that these offenders should escape punishment. It only means to express radically and with all emphasis and authority at our command that punishment measures, police strictness, even the introduction of capital punishment, does not and never will materially alter the incidence of sex crimes. There is overwhelming proof that in crimes of this kind the deterrent of punishment is simply nonexistent and is, therefore, completely extraneous to this problem. Every clear thinking person will agree that the primary task facing the Legislature and the community is that of ultimate prevention of these horrifying crimes. The recent developments are a signal proof of the scientific theories which always have claimed that methods of punishment are totally ineffective in these questions. Legal action can only deal with crime already committed, and the degree of punishment has to be in proportion to the deed. However, it is characteristic for just this kind of case that behind a seemingly innocuous misdemeanor, a very serious personality disturbance may be hidden which in the future may lead to an extremely serious offense. At present, all these cases not only go unrecognized, but there is nothing that can be done about them even

appears feasible at the present. The crux of the matter lies in the appropriation by the Legislature of adequate funds for institutions and experts to carry out these tasks. The foregoing reasoning clearly implies that the group of sex offenders requiring detention in an institution which should neither be a hospital for the criminally insane (because these are not insane people in the sense of the law) nor a prison (because these individuals are never helped by mere incarceration) would be relatively small. The main emphasis for the handling of this relatively small group, and for the dealing with the much larger group that can be taken care of extramurally, should be on personnel with the finest training and background. Even the best physical equipment cannot achieve what human kindness, understanding of the larger social issues and a high degree of skill can and has accomplished in this field. The actual personnel capable of dealing with this problem is, at present, pitifully small, though even these few experts have not been sufficiently utilized up to now. It will undoubtedly be necessary to appropriate sufficient funds for the employment and consultation of these experts. At first, their number still will be inadequate, but it is perfectly feasible that multiple diagnostic and treatment centers be erected around one or two such experts that could form the nucleus for the training of young people interested in this field. The experience gathered by the Veterans Administration could be used without difficulty. In order to meet the crying need for more psychiatrists, the Veterans Administration organized training centers which in only a few years have turned out a great number of competent and skillful experts. There is no reason why similar attempts in this field should not yield the same gratifying results. These centers could be set up in connection with courts, state hospitals, universities or other existing institutions or they could be created new, depending on the local situation in every given case. This difficult but by no means impossible endeavor, could be started immediately, and bring results immediately, while at the same time representing a long-range, comprehensive program. The amount of money required for such an enterprise has to be generous yet the expense would be only a fraction of the capital outlay required for another first-class penal institution. To repeat it once more, emphasis should be on personnel, not on institutions, important as they may be. Walls serve to detain man. Only man can cure man.

In summary, I would like to state my main points again:

1. An immediate legislative program should be enacted, making the participation of experts (psychiatrists, criminologists, psychologists, social workers, etc.) mandatory in every sex offense. These experts, paid by public funds and impartially chosen, would participate in the proceedings from the very beginning. They should assist in the questioning of suspects, the gathering of testimony, the study of the defendant and his family, and should finally make a report to the court. This procedure is similar to the compulsory consultation of psychiatrists as expert witnesses when an insanity plea is entered. The only difference suggested is that much more time should be granted to such a study, either in an institution or extramurally, so that the intricate procedures for modern

medicine, psychiatry and psychology could be used for the greatest degree of accuracy and therefore for the best protection of the community. This procedure may seem at first cumbersome and somewhat expensive (though much less so than any other measures suggested). But according to our present state of knowledge, it can be confidently predicted that it will be exceedingly successful because our present diagnostic and prognostic techniques operate with an adequate degree of certainty.

2. Observation and treatment centers should be organized around experts that are available now and new experts should be trained in the difficult work of correctional psychotherapy and medical treatment. For this purpose, personnel will have to be employed and adequate funds will have to be made available. Particularly at first, during the transitional period before the training of highly skilled personnel can be accomplished, a survey should be made of all available existing experts, observation or potential training centers, clinics, etc., that should be used to their full capacity.

These observation and treatment centers will establish full cooperation with the probation department, the courts and all other law enforcement agencies and also schools and parents organizations. It should be part of the program that teachers should be required to report every phase of unusual sex behavior in their students that they have observed or every case of molestation that has come to their attention. At the same time, parents should be encouraged to cooperate more fully than ever before with the professionally trained personnel of these clinics. It can be anticipated that the chances for support of such an appeal will be much better when teachers and parents are assured that such investigations even into seemingly trifling incidents will be conducted by a professional staff, not by police officers; with utmost discretion combined with the highest ethical attitude and skill.

3. Establishment of a long-range training program for increase of professional personnel and organization of an educational campaign, either separately or part of a general mental hygiene program. The public has to be educated to the recognition of the seriousness of this problem that cannot be solved by just increasing the sentences of those sex offenders that happen to be caught. It is the consensus of opinion that only the full cooperation of the public (especially teachers, parents, clergymen, educators, etc.) can result in full success. But the public has to be given an opportunity to cooperate, and it will do so only if it is assured that properly trained experts will be more interested in tracking down the social, economic, medical or psychological causes of every incident that comes to their attention, rather than in obtaining a criminal conviction that leaves the fundamentals of the problem exactly where they were before. Maximum training, discretion and the ethics and skill of the professional man could be made available for the benefit of the public in these observations, consultation and treatment factors, so that many sex cases could be avoided and caught long before any crime was actually committed.

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Nothing less than the best will be any good at all. Sex offenders and sex offenders to be, which the latter group according to Kinsey and many other investigators, include many more people than the general public ever dares visualizing, have to be studied carefully and evaluated individually. No summary procedure will solve the problem that may have innumerable different individual causes and reasons. But a combination of good legislation, professional skill and public cooperation will. Pessimism in this regard is mere thoughtlessness. All experiences, handicapped as they were by lack of funds and facilities point in the same direction: That effective diagnosis and prognosis of sex offenders and in many cases effective treatment, therefore effective protection of the community is possible if it is made possible. A situation like the present emergency need never happen again. The answers to the cry for maximum protection are not simple but they can be given. A rational program along the lines given above is perfectly feasible. There is no excuse for delay or hysterical panic. Clear thinking based on modern science can develop a rational program. It can be done and it must be done.

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STATEMENT OF JAMES E. MCGINNIS, M.D.

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Management of the Sex Offender

The present summarized statement, prepared for the California State Assembly Committee to Investigate Sex Crimes, is based, in considerable part, upon knowledge of sexually deviated persons gained through psychiatric examination of such individuals at three correctional institutions of this State during approximately the past five years, as well as through the examination of similar individuals appearing before the Superior Court in the Los Angeles County Psychopathic Hospital, and of certain such persons seen in private practice.

It is to be recognized that a wide variety of sex acts are included by law under the designation of "sex crimes." Among these are statutory rape, forcible rape, sodomy, exhibitionism, bestiality, fellatio involving men alone or men and women, and the various sex offenses against children. The observations which follow are of general application, although written with particular reference to the sex offender against children.

A point which deserves primary stress is that individuals committing such acts, with the occasional exception of statutory rape, are almost invariably mentally ill. This does not mean mentally ill in the limited legal definition, but mentally ill in the broader medical-psychiatric sense.

The type of mental illness involved ranges almost through the entire list of recognized psychiatric disorders, but includes most commonly psychoneuroses, senile and arteriosclerotic deterioration, mental deficiency, alcoholism with deterioration, psychopathic personality with pathological sexuality, and schizophrenia. Varying degrees of acute alcoholism predominate as influencing factors in those cases which do not show one of the forms of mental illness.

Sexual deviation, therefore, although secondarily offering a hazard to the public health, safety, and morals, is clearly primarily a medical-psychiatric problem.

From the medical-psychiatric viewpoint, the particular sexually-deviate act, the "sex crime," is of particular importance in the light of an understanding of the individual committing it. "Sex crime" sometimes is read as a lurid phrase, tending to focus attention on the sex offense in itself, and tending as well to obscure the fundamental fact that each sex offender is a person with his own particular problems, his own illness, his own often, suffering, his own personality assets, and his own prognosis for cure.

Certain sex offenders, because of the depth or chronicity of their personality disorders, or because of the history of the type of sexually-deviate act which they are given to commit, or because of their performance of especial acts of violence, must be viewed as persons unsuitable for continued residence in an unselected society, and committed to institutions affording permanent custodial care.

Other sex offenders upon psychiatric examination will be found to have mental disorders which afford a reasonably favorable prognosis for response to intensive psychiatric treatment, and ideally might receive such treatment under commitment to mental hospitals.

Still other such offenders may be found to have manifested their sexually abnormal behavior as but one symptom of a generalized physical and mental disintegration, as in the instance of many senile persons and need, in the main, medical-psychiatric management and general supervision.

And, finally, professional scrutiny may reveal certain individuals, arrested for the commission of sexually deviate performance, whose act is of an "accidental" type, and who may receive adequate benefit and reorientation through confinement to a correctional institution.

It is not the single sexually-deviate act, however, which always provides the accurate index to the personality involved. Chance alone, among many factors, may bring before the courts, a particularly dangerous offender who at the moment is involved in some less disturbing act, and, less frequently, the public emotion associated with some more offensive episode may obscure the true character of the individual involved.

The psychiatric evaluation, and the psychiatric diagnosis, is certainly not infallible, nor always accurate. but as a product of competent specialists, might be expected to offer data of aid to the courts in evaluating the offender as a person and a personality, and thus yielding additional material as basis for the judgment.

One addition in the present management of the sexual offender might therefore lie in supplementing the present court study of sex offenders to include a psychiatric examination, not particularly for the purpose of determining the absence or the presence of legal insanity, but more specifically with the aim of arriving at an understanding of the degree and type of medical-psychiatric disorder, and the accompanying opinion as to possible response to treatment. The court level at which this service might best function would theoretically appear to be all-inclusive, and the motivating consideration simply the presence of an individual found guilty by the court of a sex offense.

A second addition to the present program of management of the sex offender appears to lie in the providing of an adequate facility for the adequate, intensive treatment of the "curable" convicted sex offender.

Present correctional institutions accommodate sex offenders of the group first named in a preceding paragraph, those requiring permanent custodial care, and as well care for those of group four, the "accidental" offenders whose reorientation may be accomplished within the general correctional institution training program and with accompanying limited psychotherapy.

To the best of my personal information, however, present limitations of state correctional institution and state hospital facilities and personnel severely handicap the treatment of those persons of the second group, that is, individuals with illnesses manifest by serious sex deviations, who might nevertheless respond to adequate, intensive therapy.

These unfortunate men, haunted often by their phobias and their guilt, may be shunted through a period of years from state hospital to correctional institution to parole, with sometimes only bitterness and a determination never willingly to return to a prison, as their therapeutic harvest. It is sometimes from their ranks that the sex offenders whose acts include brutal violence have come, and it is sometimes, as well, that these sex acts of brutal violence have been motivated, not by sadism, but by fear of apprehension and consequent penalty.

Construction and adequate staffing of the State Department of Corrections psychiatric hospital might fill this present major need.

Facilities for the care and management of the members of the third group, the senile type of sex offender, are at present met in part by the state hospital and in part by the state correctional institutions. These persons require supervision and general medical-psychiatric management to a greater degree, in many cases, than they do intensive treatment. It is my own current impression that in certain of these senile cases, where there are adequate family assets and support, the needs of the patient and of society might best be met through extra-mural placement combined with medical-psychiatric care.

The question of duration of confinement for committed sex offenders has been proposed. This would appear to depend upon the individual involved, and would range from permanent care for those persons in group one to adequate time for adequate reorientation for those individuals of group four. It would seem to be always an individual matter. The time required for intensive treatment will vary with the case, and will be expected to be of relatively long duration, perhaps for from one to three years. Correctional institution confinement for punitive reasons alone may be expected to yield a benefit for a certain period of years, but beyond that limit, to be without value, and even to be of direct harm, if the offender is ever to be paroled. It is in these often delicate determinations that the judgment of the Adult Authority wisely prevails.

In response to the question of cooperation with probation officers, the opinion is expressed that periodic psychiatric evaluation of sex offenders on probation or parole might well afford a valuable adjunct to the program.

A measure which might fundamentally aid in the lessening of sex deviations is that of increasing child guidance clinics, where the problems, like those of juvenile delinquency, are often seen in their inception.

An incidental observation is that many sex offenders against children have an arrested or deteriorated sexuality, coupled with genuine fondness for children.

In summary and in conclusion, then, the following opinions are offered, with the clear recognition that the present summary treats in a very partial fashion, a complex and important problem.

1. Sex offenders are almost invariably mentally ill, in the medical-psychiatric application of this term.
2. Sexual deviation is primarily a medical-psychiatric problem.
3. The sex "crime" is of most importance in the light of an understanding of the individual committing it, and each sex offender is a particular person, with his own personality assets and liabilities.

4. Some sex offenders require permanent custodial care, others intensive treatment, others long time modified supervision, and yet others simply the opportunity for reorientation which comes with participation in a correctional institution training program.

5. The collection of information upon which the court judgment of sex offenders is based might, with benefit, be supplemented by a psychiatric study in each case.

6. A second major addition to the present program of management of the sex offender will lie in the provision of an adequate State Correctional Institution Psychiatric Hospital.

7. Long time correctional institution confinement simply as a punitive measure alone is of distinctly limited benefit if the offender is ever to be released. This does not apply, of course, if confinement is accompanied by intensive treatment.

8. Periodic psychiatric evaluation of sex offenders on probation or parole might afford a valuable adjunct to the program.

STATEMENT OF CLARENCE W. OLSEN, M.D.

Associate Professor of Neurology, College of Medical Evangelists

Type of Sex Perverts Who Are Curable

The type of sex pervert who is curable is the young person of average intelligence but lacking in sex instruction and willing to learn. The individual who conforms reasonably well to accepted social practice in other matters, who has developed interests and accepted responsibilities is not likely to be an incorrigible sex offender. The unfavorable type of offender is the old individual who suffers from one or more degenerative diseases, whose capacity for work has been diminished for one reason or another, and who is no longer able to find sexual expression in acceptable channels. Some important contributing factors appear to be a narrowing of interests, a breakdown of the habit of constructive activity, and indulgence of the appetite for liquor.

Sterilization and Castration

The measures of sterilization and castration of sex offenders are being advocated and practiced. The implications of these definitive techniques require elucidation.

The term "sterilization" is somewhat loosely applied but in its strict interpretation means only what it says and does not necessarily imply castration. It does imply an incapacity for impregnation or conception. In this connection, we must bear in mind that sexual perversions are not hereditary and that hormone function and sex behavior are not consistently influenced by sterilization. The increase or decrease of sexual urge which may follow sterilization without castration is to be traced more to emotional attitudes than to hormonal stimulation or depression. The principal effect of sterilization is contraceptive, so far as the present discussion is concerned.

In contrast with simple sterilization, castration constitutes a humiliating mutilation, especially in the male. The generally accepted statement that this procedure is beneficial both to the sexually aberrated person and to the public at large is one which I receive with skepticism. It is, of course, the most effective and permanent form of sterilization. It certainly cannot be accepted as a practical means of identifying the sex offender so that he may be recognized and shunned. While sterilization tends to dampen sexual impulses, I am not familiar with sources of reliable information on the end result of castration as a means of curbing sexual delinquency. I know that the late Dr. William R. Rosanoff had contemplated a critical study of this question in a neighboring community in which some 50 sexual offenders had accepted castration as an alternative to confinement. It was his belief that further study will be required to give proof of the efficacy of this severe corrective measure.

Hormone Therapy

Hormone therapy, either by tissue transplant, implantation of hormonal concentrates, injection or oral administration, offers rather unimpressive results in the treatment of sexual offenders. Despite the enthusiastic reports of accomplishments in certain individual cases, the consensus is that these dramatic reports arise from coincidence rather than specific effects of medical treatment.

Lobotomy and Electroshock

Dr. George N. Thompson has contributed studies on lobotomy as well as on electroshock in the therapy of sexual disorders. His conclusion is, as I understand it, that these procedures are capable of relieving depression, anxiety, tension, and confusion in patients with sexual disorder but are, in the long run, ineffective in correcting the disorder itself or in permanently curbing its expression. The suppression of initiative by radical frontal lobotomy is balanced by the admitted impairment of critical judgment and the reckless impulsiveness that are likely to result.

Summary

An effective attack on the urges which prompt sexual offenses is not as yet within our grasp so far as the fundamental medical and surgical approach is concerned.

Support and support

STATEMENT OF DR. EUGENE ZISKIND

I am Dr. Eugene Ziskind. I am an Associate Clinical Professor of Medicine (Psychiatry and Neurology) at the University of Southern California—School of Medicine. I am also the head of the Psychiatric Clinic at the Cedars of Lebanon Hospital.

The problem of the sex offender and sexual pervert is one of general interest but I shall endeavor to deal with it from the standpoint of psychiatric theory and practice.

My chief reason for coming to testify before the Assembly Committee is my conviction that the psychiatric point of view, in keeping with sound scientific methods and knowledge, should be known and that concepts psychiatrically unsound should be so labeled. It is essential that public sentiment and the powers of legislators be utilized for the constructive implementation of the psychiatric needs of our community.

Even the scientists' knowledge, in regard to sex perversions, is in great need of clarification. There are too many unknowns, too many theories and too few facts. Most of the cases of sex perversion in our society go untreated, and cures by the most scientific methods are still too few to permit us to predict their outcome under therapy. All this emphasizes the great need for more research in this area. Therefore, whatever steps are taken in the approach to these problems must include provision for more scientific study and research.

For the purposes of the Legislator, and from the standpoint of the lay citizen, it is necessary to divide the pervert group into those whose activities are harmful to other members of society and those whose activities are not.

Amongst those in the latter group are a large number of constitutional homosexuals. These form from 2 to 3 percent of all individuals. From their earliest days of childhood most of these have shown psychological tendencies peculiar to the opposite sex and, in most instances, they do not present any aberrations of intellect or behavior other than a sexual attraction to the same sex. These individuals are the unfortunate victims of a set of circumstances, possibly biological, possibly environmental, which will make their problem of adjustment in society always more difficult than the personal adjustment of their more fortunate heterosexual neighbors. Since the moral and ethical codes of these individuals is, in all other respects, the same as the code of most other individuals, they constitute no special hazard to society. They are, contrary to general opinion, not interested in having intercourse with children. They love, and prefer to live in monogamous relations with other adults of similar impulses. They practice no greater promiscuity than their heterosexual brethren. In other countries, where they are not legal outcasts and are protected from blackmail, they present no great problem. Incarceration of these individuals in jails serves no useful purpose. Imprisoning homosexuals is an unjust way of handling a freak variation of nature. It causes unnecessary suffering and is a useless expense for society. For this group, namely the constitutional homosexuals, the Sex Psychopathic Act should be revised in keeping with the more scientific and tolerant attitudes existing in other countries.

With respect to sex offenders who impose their wishes on, or do harm to, others, be they homosexual or otherwise, society must be protected. In the absence of more direct and predictable forms of medical treatment the first approach needed is custodial protection or isolation from free society. In some, perhaps many cases, this will require confinement to an institution. This is not a matter for jails. Hospitals may be used. If state hospitals are used, sex offenders should not be lodged with the psychotic patients unless they are psychotic. That will be true of only a few of such offenders. Perhaps special custodial and treatment facilities should be developed for sex offenders. Special students of this problem would be better qualified than I to testify on the most feasible method of isolating sex offenders. From my standpoint, as a physician and a psychiatrist, I merely state that these individuals should be handled as sick people. Facilities for their general medical and psychiatric examination should be available for their correct psychiatric classification. Many sex offenders are psychopathic personalities, many others suffer from organic damage to the nervous system such as we find in epilepsy, feeble-mindedness and organic deteriorations. Still others may, perhaps, be the result of chronic maladjustment, namely, neuroses, though these I would expect to be, by far, the fewest.

All cases of sex offenders should be examined psychiatrically. There are some special diagnostic measures, such as encephalography, electroencephalography and psychometric tests that have peculiar value in specially indicated cases. These and other diagnostic procedures sound impressive to the layman but they have practical value in only a limited number of cases and should be utilized only by the order of a physician or psychiatrist. Psychometric studies are also helpful in some cases and they fall within the sphere of the psychologist. Scientific tests and observations may not dispose of all sex aberrations; but they are, at least, the best approach we can make to an understanding and treatment of sex offenders.

Our methods of treating sex offenders are many. Treatment with hormones or shock therapy, used successfully in some cases of mental difficulty, have, to date, not been successful in dealing with sex offenders. Psychotherapy, which is another method of dealing with mental and emotional problems, has had many shortcomings, but I believe it constitutes a reasonable approach and warrants further trial for at least that small number of sex cases which appear to have modifiable emotional causes.

All I can recommend is an over-all psychiatric approach calculated to protect society by isolating the offender, and to give the sick individual every opportunity for basically sound psychological therapy. I hope, and believe, that provision can be made for this without excessive expenditures. If you also spend money on further scientific research you will reap more dividends than if your entire budget is devoted to custodial and therapeutic projects. As with atomic energy research, we must have the vision and unrelenting determination to pry into the unknowns of sex offenses. Such research is often the most practical and profitable approach in the long run. Far-sighted legislation must not lose sight of this fact.

In addition to the emphasis which I have placed on (1) the need for more research, (2) for a more tolerant attitude towards the socially

harmless homosexual, and (3) the necessity for an approach to the problem based on concepts of illness and treatment rather than punitive incarceration, I would like to say that there seems to be no adequate basis for considering that we are now in the midst of a wave of sex crimes. Such isolated experiences that have come to the public notice in the newspaper recently are not more frequent than at other periods and are not adequate basis for arousing public hysteria which may be productive of much harm. Instead, the stimulated interest at this time should be utilized for constructive measures along the lines indicated.

By way of practical implementation of the ideas mentioned, I would like to recommend support for two measures which have previously been turned down:

(1) One is the Keating Bill which provided for \$50,000 for a scientific study of the subject of sexual delinquency. Although this sum is quite small and probably inadequate for thoroughgoing research, it is a step in the right direction.

(2) The recommendations for an increase in the psychiatric staff at the San Quentin penitentiary have not been honored. The staff of psychiatrists could be increased to three or four times the present psychiatric resident staff so that more adequate scientific studies and increased therapeutic efforts could be made to the problems in that institution.

STATEMENT OF GEORGE TARJAN, M.D.

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The Mentally Abnormal Sex Offender

Before I state my opinions concerning "sex crimes" to you, a group of Legislators, I want to clarify the viewpoint which I represent. My remarks represent my personal opinion and are made from the point of view of a physician specialized in the field of psychiatry. We must realize that as a physician and as a psychiatrist my primary interest lies in the patient and in the treatment we physicians can give him. The individual who is often referred to as a "criminal" by legal authorities must remain a "patient" when and if he comes under the care of a physician for his treatment. It is also essential that we understand that I, as a psychiatrist, cannot assume the duties of the law-maker, the judge, or any penal authority. Such assumption on anyone's part would be incorrect and would greatly disturb the workings of our society. On the other hand, a psychiatrist can never forget that in the field of antisocial manifestations of a disturbed mind, the safety and the security of society is just as essential as the treatment or the protection of the constitutional rights of the offender.

If a psychiatrist is to serve his patients with the best efficiency, he must have adequate facilities to do so. In the case of patients who have had difficulties with the law, good therapeutic facilities include laws which are clear-cut, can be easily interpreted, and provide for placement of the patient under the care of an organized treatment set-up. Therefore, if the psychiatrist is to be of assistance to the court, to the probation officers, and to the patient in cases of sexual offenses, the laws pertaining to such offenses must carry a fairly good definition clarifying the circumstances and conditions under which an offender is to be referred to the psychiatrist instead of to the penal authorities. The law must give the treating physician control over the patient while he is under his actual care and supervision, with provisions for his supervision on leave of absence, and it must provide for simple and workable procedures for his discharge upon recovery. Finally, we must remember that any treatment of a sex offender, whether in a penal, rehabilitative or medical set-up is time and personnel consuming; therefore any authority placed in charge of any number of offenders must be provided with the necessary facilities in housing and personnel. It would be folly to create laws which would place under psychiatric care a large number of offenders without providing the agency with adequate funds to establish treatment procedures.

A psychiatric discussion of mentally abnormal sex offenders must take into account the fact that most offenses for which people are arrested are much more general in the population than one might presume from the number of arrests. For example, it has been estimated that 6,000,000 homosexual acts take place each year for every 20 convictions. It is therefore essential to realize that in most cases the arrest and the conviction is not purely the result of the fact that the offense has been committed. It is also important to know that in most cases sexual offenders are handled in a rather routine manner, and public indignation is generally not the result of the fact that a sexual act has been committed but the result of the very serious—often capital—crime connected with a few of such offenses.

If one were to examine a large number of sexual offenders, it is likely that he would find that the underlying psychiatric cause of a considerable number is a quite well-defined mental abnormality, such as a psychosis, an organic brain deterioration, or mental deficiency. These offenders can be afforded treatment if handled through the existing diagnostic and legal procedures pertaining to the underlying psychiatric abnormality. The greater problem, though, is represented by the relatively larger number of offenders who do not suffer from any of the previously-mentioned psychiatric aberrations but who on the surface show a picture of relatively normal mentality and personality structure, but who, often because of an underlying defect in character development, chronically and irresistibly are forced to commit aggressive sexual acts upon an unwilling partner. These are the people of whom we speak when we generalize with the term of "mentally abnormal sex offender."

It is important to know that the impulses existing in these people are quite similar to those existing in the so-called normal, but that the emotional controls are either different in them or are lacking in them, permitting them to act in a manner which is completely and entirely unacceptable to society. The abnormal sex offender should be considered as an individual who shows a tendency toward a repetition of his actions, and a tendency to increase the severity of his actions unless properly supervised and treated.

Because of the above-mentioned facts, a psychiatric treatment program for the mentally abnormal offenders should include:

- (a) Early psychiatric examination, preferably at the time of the first offense;
- (b) Establishment of a psychiatric diagnosis and the evaluation of the case with view of prognosis at the same time;
- (c) Provisions for supervision;
- (d) Facilities for actual treatment of those who are treatable.

The program should be flexible enough to provide facilities for as many offenders as possible. This latter provision is a big stumbling-block both from an economic point of view and because of the fact that adequately trained personnel is insufficient.

The long-range program must be based upon:

- (a) Prevention of development of character abnormalities; this must be done not later than in early childhood or early adolescence, and must be carried out through infant and child guidance clinics;
- (b) Prevention of offenses primarily through the segregation of cases with poor prognosis and the early treatment of offenders;
- (c) It must include research into the nature of these offenses and into the character of the best available treatment methods.

Now I would like to make a few remarks to some of the questions raised by your secretary, Mr. Hutcheson, in his correspondence to me. First of all, as to the diagnostic techniques available for sex offenders, I would like to state that the diagnosis of a sex offense as such is a very simple one. The offense either has been committed or it has not been committed. There is no need to call upon a psychiatrist to verify or disprove the existence of an offense. This is the obligation of others. The diagnostic help which a psychiatrist can provide to a court lies not in the determination of the character of the offense, but rather in the evaluation of the reasons and motivations for the offense. Present psychiatric

diagnostic procedures include psychiatric interviews, psychological tests, and psychiatric social work evaluations in addition to some other procedures. These provide a fairly adequate tool for the purpose. But if a psychiatric team as enumerated above is to make an intelligent report then sufficient time must be given for the study of the offender. Under the present definition of insanity in the California Penal Code it is not a complicated issue to determine whether the offender was accountable or not, but the determination of why he committed his act, or the evaluation as to how likely he is to commit another, possibly even more serious, offense is time-consuming. As a rough estimate, a team of three workers could handle only 10 examinations a week. I point this out because I believe that the obligation of the psychiatrist is not to fit the person into a legal pigeonhole but to intelligently assist the authorities in the disposition and the evaluation of the prognosis of the offender.

Psychological tests are of great value in this work. It is generally customary that a detailed work-up of an offender should include an evaluation of his intellectual capacities and a battery of tests uncovering motivations and some intricacies of character development. Such tests include the Rorschach Ink Blot Test, the Thematic Apperception Test, the Szondi Test, the Bender-Gestalt Test, etc.

Electroencephalographic studies should be freely used, but the interpretation of the tracings includes much more than the measurement of the frequency and amplitude of the electrical waves. It includes the understanding of the meaning and interpretation of these wave patterns particularly as to their correlation with behavior disorders. Often an individual is labeled an epileptic because of his abnormal brain wave pattern. Newer research suggests to us that there are many factors in addition to known organic abnormalities of the brain which influence and alter the brain wave patterns.

My experience with hormone therapy is limited. I feel that hormone therapy depends greatly upon the chronic administration of the hormones and therefore upon the cooperation and desire of the offender for treatment, and that it does not solve the basic problem which in my opinion lies in the background of these offenses: Namely, it works at the instinctual level rather than by changing the existing faults in character development.

A large number of offenders should be and could be handled through extramural treatment facilities. Many penal authorities have pointed out that careful parole and probation supervision can and often does prevent recurrences and they point out that sex offenders are not exceptionally bad parole risks. With the evaluation of the personality as obtained through psychiatric channels, a considerable number of these offenders can be properly supervised and properly treated without permanent incarceration.

The duration of the incarceration greatly depends upon the desire for treatment on the part of the offender and the amount of treatment which can be given to the incarcerated individual. It must be emphasized that the amount of treatment depends not only upon the available treatment facilities but also upon the patient's desire for treatment. It would be detrimental to overload psychiatric facilities with so-called untreatable cases or with cases who after conscientious attempts at treatment do not respond to such procedures. Incarceration of those offenders believed to

belong under psychiatric scope should be done under a strictly psychiatric authority where every other consideration takes secondary place to treatment procedures.

As mentioned previously, early treatment is the most essential factor of a rehabilitation program; therefore, cooperation with probation officers on the part of the psychiatrist is the most essential component in his attack upon the mental abnormalities of a first offender.

May I attack the question of legal insanity not from the usual point of view, namely whether or not the offender is responsible for his actions. I feel that the question of responsibility for one's acts is a much more complicated one than we often believe to be the case when we adhere to the "right or wrong" test. It is even more important for us to realize that when we decide under that formula that an individual is to be held responsible even though he acted under an irresistible impulse and confine him to a penal institution, often with a definite time limit on his incarceration and frequently without provisions for psychiatric treatment, we confront society with the consequence that the individual upon his release into society will again act under the same and unchanged irresistible impulse. We have, therefore, only two choices: Either to provide adequate psychiatric treatment in penal facilities; or to consider people who have committed an act under an irresistible impulse legally insane and place them under the supervision of psychiatric institutions.

It is my feeling that the present laws should be simplified and unified providing an opportunity for treatment to a large variety of sexual offenders on both an institutional and an ambulatory basis, with adequate supervision in either case. We must afford a certain feeling of security to the offender, producing in him a desire for treatment. We must never forget that very few offenders will look for treatment on a voluntary basis as long as treatment can be obtained only at the price of their severe and prolonged incarceration.