

STATEMENT OF MARCEL FRYM, LL.D.

Criminological Consultant and Correctional Psychotherapist, Hacker Psychiatric Clinic, Beverly Hills, California; Doctor of Laws and of Political Science, Schools of Law and of Medicine (Psychiatry), Criminological Institute, Universities of Graz and Vienna, Austria; Consultant to the Interim Committee on Crime and Correction, California State Assembly.

1. Reference is made to my "statement" submitted in December, 1949, to the Interim Committee on Crime and Correction of the California State Assembly, in which I discussed the new penal philosophy and in which I quoted leading authorities in the field of American jurisprudence and American psychiatry.
2. Reference is made to the California Law Review of December, 1949, and an article "The Legal Concept of Insanity and the Treatment of Criminal Impulses," by Frederick J. Hacker, M. D., and myself, describing techniques for the treatment of offenders, developed and used at the Hacker Psychiatric Clinic, Beverly Hills.
3. In addition to the psychotherapeutic treatment of sex offenders, which has shown excellent results in a great number of cases, I suggest extensive research in regard to hormone-therapy, and research focused on correlating encephalography and sexual delinquency.
4. I also suggest extensive and specific research on correlating psychometric tests, especially, the Rorschach and Thematic Aperception tests, with sexual delinquency. A vast material in this direction is already available at our clinic, and further research is in progress.
5. On the strength of my experience I believe that about 80-90 percent of the sex offenders can be treated much more efficiently extramurally—outside of institutions—under the supervision of probation departments. Incarceration is in itself contra-indicated for neurotic types of offenders. I refer in this behalf to the excellent book by Robert M. Lindner, Ph. D. "Stone Walls and Men." I also refer to Dr. Lindner's "Handbook of Correctional Psychology."
6. I am a great believer in probation. Probation departments, especially of the high standard of the Los Angeles County Probation Department can do an excellent rehabilitating job, if properly and sufficiently manned. I stress most emphatically that the case-load of a probation officer, especially in sex cases, should not exceed 30-40. Preferably, only officers with some basic training in correctional psychology should be assigned to the handling of sex offenders. Correctional psychotherapy by competent workers should be made compulsory in all cases of sex offenders. Bi-monthly reports to the probation department by the therapist should be required.
7. The probation department should be equipped with psychotherapeutic facilities, in which only experts in the field of correctional psychotherapy should be employed.
8. Prevention work by law-enforcement agencies should be carried out by carefully selected and trained officers with a basic knowledge of criminal psychology. Men employed in this field should also be psychologically tested in order to establish their aptness for dealing with sexual deviates.
9. Prevention work should be especially focused on schools, playgrounds, bars and night clubs, pool halls and gathering places and hang-outs of unemployed people. Sufficient personnel should be available to

investigate without delay warnings, obtain from school teachers, P. T. A.'s and private sources, indicating possible danger-cases.

10. Legislation should be introduced, changing the concept of criminal law enforcement from its present punitive character to "Social Defense." In this respect I refer to the work of the Social Defense Section of the United Nations, Lake Success, Long Island, N. Y., (Chief: Mr. Paul Amor) and advanced foreign legislations.

In compliance with this modern approach, legal provisions should be enacted, permitting an investigation and preventive measures before evidence of the commitment of a law-violation has been obtained, when sufficient reason for the assumption that a person is a sexual deviate exists. For the investigation and study of such cases, special boards should be created, consisting of reputable criminologists, educators, ministers, psychiatrists and psychologists, with power to subpoena, order examination and if necessary institutionalization for diagnostic and treatment purposes, etc.

It is self-evident that such legislation will have to be carefully worked out with the help of experts and that not only technical efficiency but also the problem of constitutionality, etc., will have to be considered.

11. Summarizing, I should like to stress, that in my opinion new legislation should introduce the new, nonpunitive but clinical approach to sex delinquency—with teeth—and should be worked out with the help of experts in the field of treatment of sexual deviations.

It must be stated at this point, that the criminal law operates with the concepts of general prevention and special (individual) prevention. This means the deterrent of the masses or of the individual from committing crimes.

Modern students of the mind know that punishment has the weakest, most negligible deterring effect in regard to sex crimes—and the strongest in regard to public violence. Sex crimes are committed in secrecy—by overpowering urges of a nature, which either excludes consideration of the consequences—or unconsciously even wants punishment.

It is time to know and to accept these psychodynamics of sex crimes in order not to yield to the demands of an understandable but emotional and not rational reaction to individual, although frightening and most tragic crimes.

I am at the disposal of this Committee regarding bibliography on sex offenders and correctional psychotherapy and in regard to case-material on clinical experiences in treatment of sex offenders. Comparative material of foreign countries can also be procured.

STATEMENT OF DR. DAVID G. SCHMIDT

M.A. (Educational Psychology), M.D., Diplomate Psychiatry, American Board of Neurology and Psychiatry, Chief Psychiatrist San Quentin now. Resident in Psychiatry at San Quentin since 1932, Director of the Psychopathic Unit at San Quentin since 1939, Chief Psychiatrist since 1940, Chief Medical Officer (Acting) during the year of 1947, at San Quentin. Consulting Psychiatrist for the Youth Authority from 1942 to 1947.

I am in charge of the San Quentin Psychiatry Unit, which is composed of five psychiatrists, two psychiatric social workers, working as sociologists, two psychologists, and two to four residents in neurology and psychiatry at present, three of them rotating through San Quentin from Langley Porter Clinic. We have also had rotating residents from Letterman Hospital, San Francisco, and from Veterans Administration at Palo Alto. We examine, diagnose and treat psychiatric problems, spending most of our time with major problems, such as psychotics, and giving what time we can to psycho-neurotic problems and other medical psychiatric problems, such as epileptic and neurological problems and sundry psycho-neurotic and psychopathic problems, and more acute emotional problems. During my seventeen and one-half years at San Quentin, we have had a wealth of opportunity to study and treat various problems, various psychiatric problems that have been at San Quentin. Sex offenders have been a large portion of our case load and our problem is to diagnose and treat, especially since 1939. Prison Board of Terms and Paroles has always considered sex offenders as one of their most difficult problems, and the Adult Authority has similarly considered these offenders as amongst their important, if not the most important of their problems. The California law requires not only a psychiatric report in the case of sex offenders at the time the Adult Authority determines their sentence and sets the parole of the sex offender, but the Adult Authority has gone one step further, and asked the psychiatrist to sit with them, at the time they consider the sex offender for sentence and parole date. Sex offenders in general fall into a number of categories, amongst which are the mental defective, psycho-neurotic, psychotic, the epileptic, psychopathic personalities. Most of these can be cured—by far the large majority of them cannot only be helped but are definitely curable. These are most of the mental defective, psycho-neurotic, most of the psychotic, some of the epileptic, and the psychopaths in our present state of development in treatment. Some chronically psychotic, a few epileptic, etc., as well as the majority of our psychopathic personalities, are not curable, but these only form approximately 10 to 20 percent of the sex offenders. In diagnosing and developing our treatment techniques psychiatrically we take not only a longitudinal but also a cross sectional neuro-psychiatric history of each individual; we use psychological, psychometric, and personality studies, including the projective techniques, Rorschach, the Thematic Apperception tests of Murray, Vigotsky, and various sundry projected techniques which include drawing the pictures of persons and things, use the Cisternal Spinal Puncture, and other medical techniques, such as the electroencephalograph and the air study in the case of brain damage, and we find approximately 20 percent of our men in prison have had brain damage, or have been unconscious from injury 20 minutes or longer. We hospitalize those that are necessary for diagnosis and for treatment and give them work wherever possible, although we have been pathetically

short of occupational therapy, and have been very short on work placement, especially among psychotic patients, or severe psycho-neurotic problems.

We use psychometric tests to determine the intelligence level, which is very important in both individual and group treatment. We found the group intelligence test to be very inaccurate, misleading, and we prefer a battery of intelligence tests, preferably the Bellevue Wexler, which gives us both performance, as well as abstract judgment ratings.

We use encephalography and find that in using it during the past year since we have had it, that a great many post-traumatic epilepsies and psycho-motor behavior problems are pointed up and not only in epilepsy, but petit-mal and epileptic equivalents, or psychomotive phenomena, and amnesias, irritabilities, and explosive behavior, low tension tolerance, low tolerance of alcohol, impulsiveness, emotionally unstable behavior. We still have difficulties in these because of the fact that we have insufficient staff; we only have a part-time technician; we have had difficulty getting our apparatus shielded, etc.

For hormone treatment we have used a form of extracts of male glands, especially in the involuntional and senility periods for debility reactions, etc. We have used insulin shock treatment for psychotics, we have used thyroid, and pituitrin for pituitary dysfunction, test for epilepsy and treatment for herpes zoster.

We have had difficulty in treating our patients extramurally or outside of the hospital in prison, largely because of overcrowding in the prison situation; the sickest would usually be crowded out of vocational and even ordinary work opportunities, due to their poor stability and judgment and their need for more supervision; oftentimes the lack of efficiency makes the civilian personnel dissatisfied and discouraged with their accomplishments. Too often this civilian personnel will follow the lines of the least resistance rather than put forth the little extra effort to help. They may castigate these patients that have emotional problems, as nuts, and fruits, and sex fiends, etc. Since these men often lack initiative, they lose out of hobby and craft activities and positions that are more desirable, such as office work, positions in industry with prison pay. They also come out on the tail-end often on recreation and other privileges. In other words, prison is a poor place to treat sick patients. Outside of prison, before the war, we were often able to get some psychiatric treatment from our private psychiatrists, who were not as busy before the war as they are now; but, while we could get private or clinic help before the war, the greater demand on the time of the psychiatrist by the general public since the war has made it very difficult to get any help for these offenders on parole.

It is true that the dangerous sex offenders need confinement, and they need confinement to protect themselves as well as others. They need segregation for study and treatment, and for research. They need treatment until they have sufficiently understood themselves and other people, until they have developed sufficient personality organization and balance and sufficient training, and have trained themselves, and demonstrated their ability to work out their general as well as psycho-sexual problems, and in a socially acceptable manner.

Problems arise because of confinement and confinement in a prison situation where the general prison population is much less accepting, much less tolerant of patients and men that are not well physically or mentally than are the general population. This puts more pressure on these offenders who are proverbially the ones that get into sexual difficulties because of pressure and rigidity, because of a sense of inferiority, prison generally makes this sense of inferiority worse, develops more insecurity feelings in the individual, segregation may be necessary. Confinement may be necessary, but morale is a terrifically important factor, because it is so necessary to develop in the individual the desire to better understand himself and others and a willingness to work to change for the better, change himself for the better, and assume responsibility for his actions. Our greatest danger of course is to make the man worse or to make a professional criminal out of an amateur one. Their morale can be improved with reasonable and just treatment and discipline which may and should be firm, but reasonable and understanding, sadism has no place in prison and one sadistic official often destroys the work of a dozen officers.

Segregation is quite necessary for the homosexual, segregation alone without treatment is futile, fixates the aberrated even more, segregation should be on the basis of a thorough neuropsychiatric study and certainly not on the word of other inmates alone or on the basis of how they walk or talk, or how wide their hips are, or how pretty or round their faces may be.

Sleeping of course should be one man to a cell, and because of the overcrowded condition of prison like San Quentin, there are very few single cells, and nearly every cell has two men in each cell, which makes it a terrific problem, so far as homosexuality is concerned, there is comparatively little work in the prison for psychotics and sex offenders that have large emotional or mental problems and they are often relegated to such idle tasks as yard sweeping. The work assignment naturally should be on the basis of aptitude and ability to work and profit therefrom. Too many of our psychotic patients are sent to the yard idle or as sweepers, which lessens their chances for recovery and rehabilitation. We should have "convalescent crews" of at least several hundred men, which problem presents a real problem to the department, to the therapist, as well as the inmate. Occupational therapy should be emphasized and these idle men should be given daily occupation therapy during all of their work hours, or their ordinary working hours.

In reference to diminished responsibility of the psychotic it should be emphasized that the psychotic may know the difference between right and wrong, and yet may not be able to act in accordance with his knowledge of what is right, or in an amnesia which may not be psychotic, and may be epileptic, traumatic, or may be in psychoneurosis, such as hysteria, or may be in a toxic-psychosis, the subconscious takes over, then overcomes the conscious will or knowledge of what is right and wrong even though this knowledge may at times exist. There has been a reluctance on the part of courts and lawyers, and district attorneys to accept modern definitions of medical insanity, into the legal usage much has been made of the disagreements among psychiatrists which

could easily be obviated, if the courts would appoint psychiatrists perhaps a group of three to submit their reports to court and make the reports available to both the defense and the prosecution. Psychiatrists could easily be chosen not alone from the Department of Mental Hygiene, but also from the Department of Corrections and from universities as well as men in private practice.

Probation officers have raised their standard to a very considerable degree, and are progressively doing better work and at all levels, they are progressively studying each man who comes under their care more thoroughly from the standpoint of his past and present personality, and get help they can to determine what is best for the individual as well as for society. Most of the probation officers have developed to the point where some of the better counties actually are supervising as many offenders on a county level as the State have under supervision in the state facilities in prison. Probation officers have availed themselves of whatever science has been able to give them and thus have been able to help the court to a very considerable amount of social and medical and psychiatric findings which previously the courts did not have at their disposal. *Sure*

We have been working very actively with group therapy in the Department of Penology, and the Department of Corrections, within the last 10 years, first on the basis of orientation, but within the last five or six years on the basis of having divided our psychotics into psychiatric groups and our sex offenders also into various psychiatric groups, and working with them in groups of 15 to 25 who are subdivided into various age groups and intelligence levels, and we tried to reach these psychotic and sex offenders' problems on a group basis at least 10 to 12 hours a year: whereas on an individual basis we have probably only given each of these 20 men approximately a half hour each year. We have, therefore, been able to give them more sex hygiene, orientation which they nearly all lack and appreciate and we have been able to give them more understanding of their normal psychosexual development and also have been able to give them a little more security and in discussing their own problem as well as problems of others and then training them to work out their problems a bit better, not only in the psychosexual area but in their general social attitude and concepts of work, spare time activities, and interpersonal relationships. We give them a better understanding of the various factors, in the organization and the balance of the individual personality. Unfortunately we have not had sufficient staff to give each offender more than approximately two hours of individual treatment or an hour and a half of individual and approximately 10 hours of group therapy each year. This can be readily understood when I point out that we have five psychiatrists each working a 40-hour five-day week, you take five days a week and multiply it by 52 weeks in the year we have 260 working days to a psychiatrist a year, taking out 15 vacation days, and seven sick days leaves 238 days, working days a year. Multiply that by five psychiatrists, we then have 1,190 psychiatric days a year for treating 1,200 of 3,600 received and recommended for treatment, of 4,800 men in prison. If we could give all this time to treatment we could spend a whole day each year on each patient. Approximately half of these days, or half of the time of each

psychiatrist is taken up in diagnosis and hospital ward work, another quarter of his time is taken up in attendance in disciplinary courts, classification committees, Adult Authority meetings, and other general work, such as officer-of-the-day work, etc., which leaves a quarter of the day or less than two hours of individual treatment for each man per year in our case load of approximately 1,200 people. We are not at present trying to reach all of the 4,800 in prison. We found that was much too difficult and gave too little time for each man, we have tried to reach 1,200, although approximately 3,600 have been recommended for treatment for major and/or moderate psychiatric problems. We are giving each man approximately an hour and a half a year individual treatment and the other half hour we use for group treatment. We have multiplied the half hour by 20 thereby getting out with 10 hours. We then see 20 men in a group, giving one hour a week for 10 weeks during one year. This gives each man only 10 hours of group therapy, which is much less than a minimum treatment for these problems. If we had double our staff we could put the staff to work full time at treatment not only on this 1,200 men of our case load of psychotics, and sex offenders but some attention should also be given to the 2,400 other men in prison that also have been recommended for psychotherapy and to whom we could thus far give only superficial treatment; no more than an examination and an orientation discussion and very rarely a progress discussion. These men are crying for psychotherapy, and we haven't the staff to give them the time, psychiatric hours just are not available.

Our experience with the Sex Psychopath Act can be summarized in that we have had quite a number of men sent to San Quentin after they had been hospitalized in the state hospital and were returned to court usually as not being able to further benefit from psychiatric treatment or with a recommendation that they be sent to prison. Poor sex hygiene for example is present in practically every one of our sex offenders, and very few of them are satisfied with their socially unacceptable behavior, and are anxious and willing to take treatment to work out their mental, emotional and psychosexual problems on a socially acceptable basis, but we are handicapped by not having a large enough staff for treatment and research to assume the responsibility given to us by the Legislature by the Adult Authority. It takes time to treat, correct and cure, it takes a staff of specialized workers and that requires sufficient moneys be appropriated and cannot be done otherwise.

Recommendation such as would aid in our over-all problem, actually could begin with emphasis on establishment of psychiatric clinics not only in our schools, but in our communities, where we will be able to not only help the children, and their parents, but also help to teach the teachers, or train our school teachers so that they may be able to overcome their feelings of insecurity in the area of helping and assisting the problem, and helping and assisting our children to grow up more normally. We also need to emphasize adult education in group discussion, especially for young parents who have their children yet to raise. Secondly, there should be a battery of psychiatrists that could be called to help and assist the court and the attorneys in valuating personality and emotional problems of the offenders before the trial or certainly before sentence of the offender; thirdly, emphasize more attention to offenders

on the county level with examination and facilities and forms and such to take care of the offender without sending him to the bastille or prison; fourth, in the prison set-up our crying need is for a somewhat larger staff that would allow us not only to diagnose and treat our offender better but also to develop more research, which is badly needed in the field of the psychotic and the sex offender also in the mental defective and the psychoneurotic and psychopathic personality. We need in the worst way a medical psychiatric facility where we would have medical staff, an adequate number of psychologists and social workers, and research facilities. The more I work in the prison situation, and the longer I work with men that are offenders who are sent to prison, be they sex offenders or other offenders, the more I understand and see why in the future men that are now being sent to prison will be largely, at least three-quarters of them, will be sent to a hospital rather than to a prison. The prison of the future will be hospitals for the most part. Sex offenders should be recognized as early as possible and treated, unless we want them to get worse, unless we want them to accumulate in our prisons, where we will practically need to build a new prison every year or two. Research into diagnostic and treatment technics, should be encouraged not personality testing only, but also in encephalographic, brain studies and glandular and hormone treatment and the use of socialization methods, segregation of various psychiatric groups, certainly outside of prison if possible, educating our preachers and doctors, and general laymen, that many of our problems emotional and psychological and psychiatric are due to our social pressures and our society. These people are sick people and need understanding, and understanding treatment not just segregation alone, with more and more pressure which, may and often does fixate them beyond any possible hope of cure, and drive them into more and more serious crimes.

We must prepare our parents, teachers and others to show a willingness to put forth the sufficient effort early enough to recognize their problems to help them treat them early preventively before they get into major difficulties, more and more serious difficulties: failing this, really treat the offender, not just give lip service to a psychiatric treatment program, not just lull ourselves and the public into a feeling of security, but actually provide the money and employ sufficient staff to give intensive treatment and do research in more than name alone.

STATEMENT OF KARL MURDOCK BOWMAN, M.D.

Professor of Psychiatry, University of California School of Medicine; Medical Superintendent, The Langley Porter Clinic; formerly member of the Mayor's Committee for the Study of Sex Offenses, New York City.

It is not entirely clear what use is made of the term "sex perverts." Possibly all types of sex behavior forbidden by law would be so considered, but it seems probable that the interest is centered primarily in homosexuality, crimes of violence, seduction and sex play with children, and incest.

A peculiar situation exists with regard to what are called sex crimes, and such a concept is little used in legal matters generally. Certain sex acts are labeled as crimes against nature, and those committing them are subject to punishment because of this definition. As Kinsey has pointed out:

They are punishable without respect to the mutual desire of the parties involved to engage in such activities and irrespective of the fact that the persons immediately concerned may find satisfaction in their performance. In all the criminal law, there is practically no other behavior which is forbidden on the ground that nature may be offended, and that nature must be protected from such offense. This is the unique aspect of our sex codes.

It may also be pointed out that historically our concepts of what is normal and what is abnormal in sexual behavior are derived from the early Jewish codes, which in turn were taken over by the early Christian Church. The validity of these early religious concepts has been challenged by Kinsey and others and it seems that society might well study this matter carefully to see whether or not certain radical revisions in this code are needed. Not only may one question the definition of what is abnormal and antisocial in sexual behavior, but one may also question whether the methods in general use for enforcing these sexual codes and the punishments inflicted by society can be justified. May I quote a second paragraph from Kinsey:

The enforcement of these fundamentally religious codes against the so-called sexual perversions has been accomplished, throughout the centuries, by attaching considerable emotional significance to them. This has been effected, in part, by synonymizing the terms clean, natural, normal, moral, and right, and the terms unclean, unnatural, abnormal, immoral, and wrong. Modern philosophers have added concepts of mental degeneracy and psychosexual immaturity to the synonymy. The emotions evoked by these classifications have been responsible for some of the most sordid chapters in human history. Rarely has man been more cruel against man than in the condemnation and punishment of those accused of the so-called sexual perversions. The punishment for sexual acts which are crimes against persons has never been more severe. The penalties have included imprisonment, torture, the loss of life or limb, banishment, blackmail, social ostracism, the loss of social prestige, renunciation by friends and families, the loss of position in school or in business, severe penalties meted out for convictions of men serving in the armed forces, public condemnation by emotionally insecure and vindictive judges on the bench, and the torture endured by those who live in perpetual fear that their nonconformant sexual behavior will be exposed to public view. These are the penalties which have been imposed on and against persons who have done no damage to the property or physical bodies of others, but who have failed to adhere to the mandated custom. Such cruelties have not often been matched, except in religious and racial persecutions.

Many psychiatrists find themselves definitely critical concerning these fundamental points. Attempts at discussion of the problem of sex crimes is difficult when one lumps all the sex behavior generally forbidden by the laws of our different states and tries to make any generalizations concerning persons who violate the sexual code.

It may be worth while to point out that Kinsey reports that 40 percent of preadolescent boys engage in heterosexual play and about 48 percent in homosexual play, which is specifically genital. "Two-thirds to three-quarters of the males in our American culture and some lesser number of females engage in at least some 'perverse' sexual behavior at some time between adolescence and old age. One-half to two-thirds of the males engage in such behavior with appreciable frequency at some time during their lives and a fair number engage in some such behavior throughout their lives. Indeed, over 95 percent of all males are regularly involved if masturbation is rated a perversion, as it is in Orthodox Jewish and Catholic codes."

It seems obvious that psychiatrists can have but little effect in changing this general pattern of behavior in our population. All studies that have been made indicate that mental disease or defect of sufficient degree to warrant commitment is not the major cause of sex crimes by the relatively small group of those who are actually apprehended and convicted. Psychiatric examination of all persons accused of sex crimes is desirable, but no more desirable than psychiatric examination of all persons accused of serious types of crimes.

I would call attention to the fact that Massachusetts provides such an examination, and that New York has specific laws for the psychiatric examination of any person accused of crime that the judge may care to have examined. There seems no special reason to single out sex crimes for such psychiatric examinations. I would recommend that the State of California set up adequate psychiatric facilities so that persons accused of crime may be given a psychiatric examination. The procedure carried out in New York City, using Bellevue and King's County Hospitals, with the setting up of a psychiatric clinic in certain of the courts for the examination of convicted offenders, would be most desirable. There is no evidence that California is suffering from a wave of sex crimes. It is, however, suffering from a wave of mass hysteria regarding this matter. It is important that laws be drawn up and measures instituted for dealing with these problems after a period of calm deliberation, rather than in response to a wave of popular emotion. There seems little likelihood that merely passing more laws and increasing penalties will produce any particular beneficial effect.

It should be noted that in some parts of the United States it is agreed that the police authorities should concentrate their efforts on sex crimes of violence, sex crimes against children, and those who make a public nuisance of themselves by their sex behavior. Such procedures as the utilization of police officers and detectives to go about trying to induce homosexuals to agree to homosexual acts for the purpose of arresting them and sending them to prison is not the best use of our police force.

There is wide difference of opinion regarding the cause or causes of unusual and unconventional types of sex behavior. Such variations in opinion are probably an indication of our lack of knowledge. There is no adequate proof that homosexuality, for example, arises on a constitutional inherited basis. The claim that homosexuality can be cured by the use of hormone therapy is quite unconvincing and the majority of psychiatrists do not feel that it is of any value, except perhaps in an

infinitesimally small group of cases. It appears that special conditioning experiences, family attitudes, and cultural factors are much more important causes, and it is quite likely that homosexuality has a multiple causation. A certain number of cases can be greatly benefited by psychiatric treatment. No good statistics exist regarding the value of psychiatric therapy in these cases. It seems most important to stress the need of further research so that we may have a better understanding of the causes of these conditions and better ways of dealing with them.

In the meantime, it is recommended that a change be made in our attitude in dealing with these cases. The changed attitude with regard to alcoholism has resulted in helping many more alcoholics to get over their excessive drinking. It is now generally admitted by most students of the problem of alcoholism that the punitive treatment, with prison sentences, is not going to accomplish much toward solving the problem of alcoholism.

There is no question but what society is entitled to protect itself against persons who, by their behavior, constitute a menace to society. The alcoholic who is such a menace should be treated with the idea that the protection of society takes precedence over everything else. Protective segregation of such individuals is necessary and desirable. Similarly, there can be no question but that sex offenders who commit crimes of violence, or who tamper with children should be considered menaces to society, and that whatever methods are necessary to protect society from these individuals should take precedence over attempts at treating the offender.

Attention should, however, be called to the fact that the armed forces, as a result of their experience with the problem of homosexuality, greatly modified their attitude, and in the vast majority of such cases, no punishment whatsoever was imposed on homosexuals, unless they had committed crimes of violence. It also seems well to call to the attention of this committee the fact that there are many cases where small children make sexual accusations against others where no sex crime has been committed. Claims made by children should be most carefully investigated, and all such children should be given a careful and thorough psychiatric examination.

STATEMENT OF WILLIAM W. HARPER
Criminological Physicist

MR. H. ALLEN SMITH

Los Angeles, California

DEAR MR. SMITH: With reference to your letter of November 30, 1949, the following report relative to the possibility of improvement in sex crime investigations is submitted. It is my hope that this material will be of some assistance in the work of your committee.

Sex crimes range in severity from the very minor offenses, such as indecent exposure, to the most brutal types of murder. In most of these crimes, regardless of severity, physical evidence obtained by skillful investigation, is of vital importance. Depending on the particular case, such evidence may contribute in any or several of the following ways:

1. It may verify the charges of the victim.
2. It may give physical substantiation of the corpus delicti.
3. It may provide material proof of the guilt or innocence of the accused.
4. It may lead to a confession of guilt.

Any procedure which can furnish such information at this is obviously of extreme value to those concerned with the apprehension of sex offenders. In each case, the maximum proof of guilt should be placed in the hands of the prosecutor, thus assuring the absolute minimum hazard of bringing to trial an innocent suspect.

It is unfortunate that in many police jurisdictions, due to a lack of experience and training in these matters, proper investigative procedures are rarely followed. The larger police organizations have trained specialists in this type of work, but in the majority of smaller police agencies there is a noticeable lack of knowledge relative to the investigation of sex crimes. I believe that it is self-evident that some standardized form of investigative procedure should be formulated and disseminated to all police agencies. Clearly, the prosecution or treatment of a sex offender must be predicated upon definite proof of his guilt, and definite proof is not provided by a mere statement from the arresting officers that they are "sure" they have the right man.

The extent of the physical evidence, in a general way, is proportional to the severity of the offense. Thus, in many minor offenses, very little, if any, physical evidence will be involved. In major attack cases and murders such evidence may be very abundant. In every case, however, regardless of severity, the possibility of physical evidence must be considered.

To illustrate that physical evidence is not always absent in minor offenses the following case is cited: A child claimed to have been molested by a man in the storeroom of a building. According to the child's story, the man held her as he was seated on a chair. The man denied ever having been in the storeroom in question. Investigation disclosed that painting had been in progress in the building; that a paint can had been placed on the chair in the storeroom earlier on the day of the offense; that the chair was contaminated with a circle of fresh paint where the can had rested. Further examination of the trousers of the suspect disclosed a circle of paint on the trousers corresponding in size and color to that on

the chair. Confronted with this physical evidence, the suspect confessed. In the absence of this paint, this case might never have been properly solved.

Attention must also be given to the use of the lie detector in the investigation of sex crimes. While this instrument may not provide evidence which can be used in court, it does constitute a powerful investigative tool. A worthwhile number of local cases have already been successfully handled in this manner. Here again we find that many police agencies are entirely unfamiliar with the use of this equipment. For example, they do not understand that the methods of investigation and interrogation must be modified, as compared with usual practice, if a lie detector test is to be subsequently employed. An old fashion type of police interrogation of a suspect will introduce so many obstacles for the lie detector examiner that no effective results can be obtained in some cases. Another common misconception is that if a lie detector is to be used, no extensive investigation is necessary. As a matter of fact, just the reverse is true.

It may be said that such equipment is available to only a few agencies. In this area it is true that there are only two lie detectors in service, and to my knowledge only four men have been trained in their operation. But I am sure that either of these departments are ready and willing to render assistance to all other agencies in this area. In fact, to my knowledge, one of these departments has made lie detector tests on several occasions of sex offenders brought in from Las Vegas, Nev., and other remote points. It is my opinion that greater use should be made of the lie detector in sex crime investigations, but this cannot be done until such procedures are well understood by police investigators.

To assist the smaller police organizations in handling cases of this type, an outline of investigative procedure has been prepared and can be made immediately available. This outline, in addition to being informative on physical evidence in sex crimes, can also serve as a check list for an investigator working on such a case. Following such an outline will minimize the chances of overlooking certain very important items of physical evidence.

I am sure that specialists in the legal phases of medicine, chemistry, physics and psychology can render definite help in the fight against sex crimes. The full measure of their help, however, cannot be realized until field investigators are adequately trained and experienced in the procedures of scientific criminal investigation.

STATEMENT OF DR. ALEXANDER J. STODDARD

Superintendent of Los Angeles City Schools, Los Angeles City Board of Education

It is proposed that the schools have certain responsibilities in connection with the prevention of sex crimes. These responsibilities obviously are shared with many other agencies and institutions, especially the home and the church.

Some of these responsibilities are rather general, others quite specific. Many of them are being met quite fully, while others are being met in varying degrees of effectiveness.

I am listing below the responsibilities that belong particularly although not exclusively, with the schools and making some comment as to the extent to which I think we are meeting the responsibility involved.

1. General

1. The schools should provide a clean, wholesome environment for growing boys and girls. This environment should include abundant opportunities for participation in games and other forms of recreation, in activities that are normally related to the lives of growing boys and girls, and in personal relationships that are morally sound and yet stimulating in the vibrant spirit of childhood and youth.

Young people, if they are normal, are bound to live dynamically. The schools should help them to know about the necessary negations of life and to abide by them, but also to know about and live in the direction of the good and positive side of life.

Boys and girls grow as they react to their experiences. The experiences which human beings have are either good or bad in their effects on human growth. They are also high or low in their potential effect on human conduct. The schools should help provide experiences for boys and girls that are rich in their meanings and powerful in their effect on human growth. Schools should be places where young people can and do have experiences that are fun and yet lead to right habits of conduct, the development of worthy ideals, and the building of a good life that involves moral and spiritual values generally accepted in our kind of country.

The Los Angeles Schools recognize and accept their share in these responsibilities and are working hard to meet them. Much progress has been made, but here, as elsewhere, there is much yet to be done. We are striving, I believe intelligently, to make the schools, year after year, better and better places where boys and girls can live the good life, which in many ways has implications in connection with problems of sex behavior.

2. The schools should provide, through physical and health education, a continuing well-integrated curriculum program, for teaching from kindergarten to college, appropriate social and personal standards. Emphasis should be placed on understanding the science of physical and emotional growth and the importance of good, clean living and successful and happy family life. If boys and girls know and understand the normal growth processes and have formed good habits of conduct, they will be more capable and inclined to discern and reject the abnormal.

Those responsible for curriculum development in the Los Angeles City Schools are not altogether satisfied that our program is all that it should be in these respects. But here again we are studying the problem constantly and trying to find the role that the schools should play in this respect, in cooperation especially with the roles that should also be assumed by home and church.

II. Specific

1. There should be a most careful screening of all employees, both applicants and in-service, with rigid elimination of any who manifest or have a history of aberrant sexual behavior.

We try to do this effectively but further precautions are being taken to discover such histories. There is no compromise with employees who are found guilty of sex offenses.

2. On the positive side, only those school employees should be selected who have excellent educational, cultural, and social backgrounds and who cannot only perform their direct duties efficiently, but who also exemplify in their own lives, good social and ethical standards of conduct, without alarm or morbid fears.

We are striving constantly to find prospective school employees who can and do live balanced lives. Through institute programs, workshops, and other means, an attempt is made to provide in-service education particularly along the lines of normal personal, group, and family relationships. This personnel problem will never be completely solved but there is no other problem about which we are all as constantly concerned.

3. Every possible precaution should be taken to provide a program for the early recognition by school personnel of any signs of mental, emotional, or endocrine abnormalities and especially deviant sexual behavior. Adequate provision should be made for the prevention of the repetition of such abnormalities whenever practicable. Corrective measures should be provided through school medical, counseling, and psychiatric services, including the operation of guidance, welfare, and adjustment rooms and child guidance centers.

As far as we know, no school system is doing all that it could or should along these lines. It is not just a local school problem, but rather one which must be more adequately recognized at the state level. The State should provide legislation and financial support for establishing in and through the schools a far more comprehensive program than we now have for the early recognition and treatment of children and youth who represent beginning stages of deviant sexual tendencies.

4. Every precaution should be taken to safeguard children from potential or actual sex criminals. The following instructions have been issued for the information of principals, teachers, playground directors, custodians, and others who are charged with the care of children while on school premises:

A. Instructions to Employees

1. Be constantly on the lookout for suspicious strangers loitering in or near school buildings, or parked in automobiles nearby.
2. In such cases, tactfully talk to them to determine why the individuals are in the vicinity of the school. If conditions warrant, warn the person that there is a law against loitering in the vicinity of a school.
3. If the actions of the loiterer are definitely suspicious, notify the local police at once, and as soon as possible inform the Child Welfare and Attendance Branch of the incident.

4. Establish and maintain cordial relations with your local law enforcement officials.

5. Work with local civic organizations, Parent-Teacher Associations, and others in formulating plans for insuring the safety of the children in your community.

B. Instructions to Pupils

Teachers, under the direction of the principals, should instruct their children on the following matters. It is understood of course that the wording is adapted to the maturity level of the pupils.

1. DO NOT take anything such as candy, toys, or money from strangers.
2. DO NOT talk to strangers on the way to and from school.
3. DO NOT accept a ride in a stranger's automobile.
4. DO NOT "thumb" rides at any time.
5. DO NOT loiter on the way to or from school.
6. If possible, walk to and from school with other children.
7. If a person makes insulting remarks on the way to school, or acts in a bad way, tell your teacher or the crossing guard or policeman if you see one. If some person does this when you are going home, tell your parents at once what has happened. If the person is in an automobile, remember what the car looked like, and try to memorize the license number of the car. Remember what the person looked like and what kind of clothes were worn.

III. Recommendations

Although we in the schools realize that we are representing only one of the many agencies that are concerned with this matter of sex crime, we make the following suggestions with the hope that they may be of some help:

1. State legislation should provide for a program of personal and family life education on a scientific basis that would provide a minimum program of instruction available for all children, youth, and adults, content and substance of the program to be geared to the age level involved. It is repeated that this program should be minimum in scope, leaving a residue of responsibility to be assumed by the home and by the church in areas that cannot be properly covered by the schools. I do not know whether a satisfactory program can be worked out but I think that some attempt should be made to solve the problem on a state-wide basis because there are many thousands of our people, young and old, who are not receiving the kind of instruction on personal and family life problems that they should have. Some means should be provided, on a state level, for the proper education of the prospective teacher as well as those in service so that they will be equipped to perform the functions that are specified in state legislation on this subject.

2. With state help, there should be provided more adequate means of caring for the grossly deviant children, especially those who are sexual psychopaths, either through greater correctional care in outside institutions or by providing such care within institutions to which they may be committed.

3. Legislation should be provided under which the courts could deal more rigidly with sex offenders. Frequently the sex offender is given a light jail sentence, or a small fine, or both and allowed to go out into the community to repeat his offenses and develop further and further in the direction of sex crime.

4. On my own responsibility, I am recommending that some procedure be established by state law authorizing and directing the courts to assign a sex offender, on the occasion of his first proven sex offense, to the custody of a committee of three persons, possibly a physician, a

psychiatrist, and a lay citizen who would have legal charge of the offender, with the obligation to keep in constant communication and contact with the offender, and to recommend to the court from time to time any further disposal of the case that they deem advisable. The members of these committees should be paid for their services and should accept the responsibilities involved with as much sincerity of purpose as anyone would accept any position of public trust. If this could be done with cases that do not involve the permanent commitment to an institution of an offender and if more remedial service could be given to offenders who are committed to institutions, I believe that it would go a long way toward preventing many of our sex crimes. I am not at all sure that all could be prevented but I am very confident that some of them could be, if proper preventive and remedial measures could be taken in time.

RECOMMENDATIONS MADE BY WILLIAM R. McKAY
Judge of the Superior Court, Los Angeles County

In response to your request of recent date that I appear before your honorable body for the purpose of presenting certain recommendations for your consideration and study for the particular purpose presented by a recurrence of so-called sex crimes throughout the State, I am pleased to submit to you for your consideration the following:

1. It is my recommendation that there shall be an immediate establishment of a state institution for the incarceration, treatment and cure of sex psychopaths and sex variants, this institution to be specially equipped for the purpose of dealing with these particular persons. Later on I shall recommend the modus operandi for the commitment of these people.

2. I recommend the immediate establishment of local centers throughout the State, one to be located in each county thereof for the care, treatment and cure of sex psychopaths and sex variants, these persons to be committed for local treatment where a commitment to a state institution is not indicated. In larger centers of population more than one such center shall be established, the number in each instance to be dictated by the population of the particular area to be served.

3. Provide each criminal court in the State of California with a panel of experts consisting of a medical man, a psychiatrist and a sociologist, so that the physical, mental and social factors of each case may be accurately assessed and considered. No court is all wise so that it is able to deal with every case of a criminal nature coming before it. Therefore, the judge should have at his disposal the panel of experts suggested.

4. I recommend that a law be enacted making it mandatory that every criminal case shall be referred to the probation office for a report to the court either upon a plea of guilty or investigation by the court or by a jury, and I make this recommendation regardless of the fact of whether said defendant has been convicted of a sex offense or not—the probation officer's report to indicate whether the defendant is a sex psychopath or sex variant, or whether there be a reasonable ground to believe that he may be considered in said category.

I further recommend that upon the report of the probation officer in each criminal case that a special treatment may be accorded the defendant for the purpose of determining whether he be a sex psychopath or a sex variant, and that in those cases where it is certain or there is reasonable cause to believe that the individual charged with a crime is a sex psychopath or sex variant, that said facts be set forth with particularity, and thereupon the judge of the superior court shall make an order directing that further proceedings be suspended insofar as the criminal matter is concerned.

Thereupon the court shall direct a panel of experts to make a further study of the defendant, and if they are of the opinion that he is a sex psychopath or sex variant, or if there be reasonable cause to so believe, that a complaint shall issue forthwith setting forth with particularity the circumstances upon which said finding or findings are made. Thereafter a warrant shall issue for the incarceration of the defendant, and thereafter within a reasonable length of time after he has been arraigned and informed of the nature of the charge against him, that a trial shall

be held before the judge of the superior court for the purpose of determining if the defendant in question is a sex psychopath or a sex variant.

Thereupon, following testimony, if the court be of the opinion that he comes within such category, that he be committed to a state institution for sex psychopaths or sex variants, there to be incarcerated until cured, and then in the event he is declared cured by the head of such institution, that he be returned forthwith to the judge of the superior court who committed him, where a trial shall be had with the assistance of a panel of experts to determine if said person is no longer a sex psychopath or sex variant. In the event there is a negative finding, the court shall thereupon order the person returned to the state hospital from which he was discharged.

In order to meet any constitutional inhibition, and so that the rights of all persons shall be properly protected, I would cause to be written into the statute a provision that in each instance the sex psychopath or sex variant shall be accorded a right to trial by jury if he so desires.

5. It is also my well-considered opinion that the law should include within it a provision to the effect that a party suspected of being a sex psychopath or sex variant should be held in jail without bail pending final adjudication of his case. I believe such a procedure to be within the police power of the State, and as authority for this view I cite those cases which provide for the quarantine of prostitutes following their arrest and prior to the investigation of their particular offense.

6. I recommend the enactment of a statute somewhat similar to the statute providing for the commitment of persons to an institution for the insane, but instead of dealing with mentally ill persons that a provision be made that those dealt with be sex psychopaths or sex variants. That a complaint shall issue setting forth with particularly the facts constituting the alleged charge. That thereafter a warrant issue, and following a trial before the court, with the assistance, aid and advice of experts, that the person either be committed to a state institution provided for that purpose or be discharged.

That the commitment also provide that the sex psychopath be committed to the institution until cured, then in the event the governing body thereof shall certify that he is cured that he shall immediately be returned to the county from whence he was committed, and there a hearing shall be held before the court which originally committed him. Following this hearing, assisted by experts, if a finding be made that the party is cured, he shall be discharged. If the finding, however, be in the negative, the party is to be ordered returned to the state institution from which he was recently released. In order that constitutional safeguards may be apparent, the law should provide that the defendant shall in each instance, if not satisfied with the verdict of the court, be given the opportunity of a trial by jury by requesting such a jury trial within five days after he has been committed.

7. I recommend the establishment of a state institution for chronic alcoholics. A study of the entire sex problem will demonstrate that many of those who have, or are about to degenerate into sex variant tendencies, are chronic alcoholics whose condition has in large part been contributed to by the inordinate use of intoxicating liquor. In many instances, if the proper care be accorded an alcoholic under these conditions, these ten-

dencies may be recognized and cured before he becomes a problem, or before his condition becomes congenital.

It is my well-considered opinion that a thorough review and overhauling of the present law providing for the declaration of one as a sex psychopath, and for his commitment to a state institution, shall be made immediately. Under the present law where one is charged with a sex offense, he may be declared a sex psychopath and ordered committed to a state institution until cured. Very often these men are kept at such institutions for a year, fifteen months, and sometimes as long as two years. Then they are returned to the court from whence they were committed, with the report that they are incurable. It then becomes a serious problem for the superior court to deal with.

It is my well-considered opinion that a serious constitutional question is here presented as to whether the court then possesses the right to sentence the defendant to a term in state prison after he has served some considerable time in the state hospital. While it is true that the state hospital is not a penal institution, yet the party has been confined and restrained of his liberty. In order that this situation may be definitely cleared up, I believe provisions should be made for the commitment of a sex psychopath to an institution for such time as may be necessary to effect a cure.

In conclusion, I wish to commend the California Legislature for the progressive legislation it has heretofore enacted for dealing with sex offenders, and for their ready response in providing ample appropriations for the institution designated herein. Any failure to comply therewith cannot be cast upon the Members of the California Legislature. They have done their part, and have ever been willing to respond to all just and legal requests. It is my well-considered opinion that in large part the unholy situation which at present exists in California, and the fact that it has almost gotten out of hand, is due in large part to public apathy.

Since 1936 I have been a member of an advisory board of a local institution which was founded for the purpose of dealing with problems which attend sex psychopaths and sex variants. On many occasions I have, as a condition for probation, ordered individuals to submit themselves to this institution for consideration and treatment. In many instances they have been cured, and in many instances the individuals thus cured have assumed positions of prominence in this community. The institution was of a charitable nature. If the individuals were able to pay or pay something, that was required. If not, the treatment was without compensation. However, this institution has struggled for years, and it has only been due to the perseverance and great interest of the doctors connected therewith that it has been able to survive. On many occasions I have sought assistance and help for this institution, and it has not been forthcoming. It just seemed that the people had not yet reached that position where they were of the opinion that something should be done, and unless the citizenry generally are awakened to this unholy condition the efforts of all of us will have been spent in vain.

I assure you, gentleman, that I greatly appreciate the courtesy you have extended to me, and I trust that these recommendations may bring forth discussion and consideration on your part. In the event I may be able to assist you further, feel free to call upon me at any time.

STATEMENT OF ARTHUR S. GUERIN
Judge of the Los Angeles Municipal Court

Complying with the request of this committee that such information as I might have on the subject of your inquiry be presented to you in writing at this hearing, I herewith submit my report.

At the outset it must be borne in mind that the information contained in this report, and the opinions given, are solely those of one member of the court, and should not be accepted as being the expressions of the court as a whole.

During the 13 years that it has been my privilege to be a judge of the municipal court in this city, the greater part of my time has been spent presiding in the criminal divisions of the court; and from the outset, one of the most vexing problems presented to me is the one you are now concerned with.

I believe that we will all recognize that in the pronouncement of sentence, not only does the judge have the duty of imposing a punishment that will fit the crime itself, but in a certain class of cases he must consider the effect of the particular offense upon society as a whole, and there are instances, this being one of them where the individual's freedom may have, and frequently does have, a decided effect upon the welfare of society generally, and, in particular, juveniles.

In dealing with the problem of the sex degenerate or sex variant, as they are sometimes referred to, in the municipal court we come in contact with him in prosecutions for violations of Section 311 and Section 647, subdivision 5 of the Penal Code when prosecutions are instigated for violations of these sections, which are misdemeanors, and under Sections 288 and 288a of the Penal Code when we are sitting as committing magistrates. A perusal of the arrest reports submitted in cases involving violations of Sections 647 and 311 of the Penal Code and of the testimony adduced in those cases where the defendant stands trial, indicates that in a large percentage of the cases the facts would support a prosecution for violation of Section 288 or 288a of the Penal Code.

In the large majority of these cases their history demonstrates that in the first instance, arresting officers or investigating officers handling these cases have presented them to the district attorney's office in the complaint department, and in cases where a complaint was refused when the events involved children, the refusal was predicated on the opinion of the deputy district attorney that the children would not make competent witnesses. When the complaint is refused in the district attorney's office it has been the procedure of the arresting officer or investigating officer to promptly present the case to the city prosecutor's office, which in turn files on the defendant for violation of Section 647 of subdivision 5 or Section 311 of the Penal Code.

In the early experiences which I had in this class of cases it was my usual procedure to refer them to the probation department, and follow generally the recommendations made by that department in relation to punishment and treatment. It did not take long, however, for me to discover that in my own particular experience, the treatment received while under probation did not prove beneficial. In following up cases I could not find that in those instances where men had been instructed to avail themselves of treatment prescribed, that any cure or even satisfactory progress had been accomplished.

It was also interesting to note that in the case history given by the individual defendants, conservatively 96 percent of them indicated that they were born normal but had been educated in sex degeneracy, usually between the ages of 12 and 17, by adults. If these statements are true it is certain that freedom of liberty on the part of sex degenerates presents a serious menace to juveniles in that sex degenerates, enjoying unrestrained liberty, following their desire to gratify themselves sexually will seek out and educate youngsters, who, in turn, will become sex degenerates.

For fear that the experience I was having in the cases which came to my attention were just unfortunately my own, I determined to investigate at random cases over a period of years in which probation had been granted, and by other and different judges, and follow the cases up to determine what, if any, results were obtained.

Therefore, in the year 1943, I selected 100 cases which had been before the court in a three-year period. In each instance I read the probation report, the arrest report and the case history. They usually followed the same pattern, and in all the cases except a very few, the probation department recommended probation with certain treatment to be submitted to by the individual defendant.

I then went to the probation department itself, and investigated the system used there in supervising the individual defendant, and it was reflected that the department had the defendant appear at stated times for an interview. A card system was used, and upon it the supervising probation officer would note the results of his interview. Such statements as the following would be made by the defendants: "I am successfully conquering my problem." "I have not committed another violation and am successfully combatting my problem." "The treatments are highly beneficial. I am making progress."

In following these cases down, I found that in almost all of them the final disposition demonstrated one of two things, that the defendant had again violated the law, or had failed to report and his present address was unknown. In the latter classification, it may be assumed that the defendant, having found that his misfortune was unconquerable, had left the jurisdiction of the court and the supervision of his probation officer rather than run the risk of being incarcerated for violating probation.

I could visualize the interview between the probation officer and the defendant. Quite naturally, it would only be human nature for the defendant to make the comments which were reflected from the report on the supervising probation officer's card. It does not follow that a man who is under a heavy suspended sentence would frankly admit to his probation officer that between the interviews he had succumbed to his sexual desires and had gratified them by violating the terms of probation.

The very nature of the crime itself is one that precludes any possibility of close supervision, even though the probation office were staffed with sufficient personnel (which it never has been) to permit adequate supervision. To accomplish 100 percent effectiveness, it would require a probation officer to be with the defendant 24 hours a day, and such supervision would not cure the defendant but would only prohibit him from gratifying his sexual desires.

The only way success or failure can be demonstrated is from the record, and because I have found no case of any character, nor a single instance where it has been demonstrated beyond argument that the sex degenerate has succeeded in restraining himself from the commission of acts of sex degeneracy, I am forced to conclude that there is no cure.

Having reached that conclusion and the further conclusion that the sex degenerate presents a definite menace to juveniles, I deem it necessary, in approaching the question of punishment from the standpoint of the welfare of society, that the individual be incarcerated for the maximum term provided by law. During this period at least, he will have no contact with society and will not actively present a menace until his term is served, when he again has freedom of movement and will continue to violate until again apprehended.

I recognize that the method I now use in dealing with this problem is entirely wrong. But, unfortunately, the penal provisions of the law are all that I have to work with.

With this in mind, on December 14, 1943, I directed a letter to the Honorable Earl Warren, Governor of California, at a time when he indicated that a special session of the Legislature be called for the purpose of dealing with certain penal problems in the State of California. One of these problems directly concerned the problem of sex variants in the penal institutions, such as San Quentin, Folsom, etc. In that letter I stated:

It appears that you contemplate a segregation of prisoners in penal institutions who are homosexuals. For a long time it has been my firm belief that our approach to the problem of dealing with individuals so classified is entirely antiquated and not in keeping with common sense and good judgment. It should be recognized as a social problem rather than a penal problem.

May I submit for your consideration that the Legislature provide for legislation which could be patterned along the same methods used in dealing with persons of unsound mind, and provide a state institution, separate and apart from penal institutions and psychopathic institutions, in which homosexuals could be incarcerated.

It has been my policy to impose maximum sentences in these cases; and I say frankly to you, it is not only a question of punishment but, in my opinion, likewise it is my duty to prevent these individuals from contact with society, and more particularly with our juveniles. I have seen so many cases where these unfortunate people have converted youth to sex perversion.

There is no question but that they should be segregated in a state institution specifically designated to deal with their particular problem. If I incarcerate one of them in our Los Angeles City or County Jail, when he comes out he is still a sex pervert and begins again to practice his perversion upon the youth of our State.

It is a highly debatable question whether or not medical science can do anything for these people. I have referred many of them from the Probation Department to treatment agencies, and have yet to see a single case where any good was accomplished. It seems to me that until medical science does find a cure, we should adopt a practical viewpoint and incarcerate them in an institution where there would be no possibility of their being released and becoming a menace to society. After all, it boils itself down to this: Is this a penal problem, or is it a social problem? Our law now describes it as a penal offense, and probably it might be conceded that it is a psychopathic condition and should be treated as a social problem in the first instance.

The Annual Report of the Los Angeles Police Department indicates that there were 814 adult arrests for sex perversion in this city in the last fiscal year. At the moment there are approximately 25 persons incarcerated in the Los Angeles City Jail for crimes of sex perversion. It won't be long before all of them will again be released to prey upon the public.

I submit this matter to you with the serious prayer that it will receive your careful consideration, and that more enlightened legislation may be adopted to give courts an opportunity to deal properly with this problem.

In the fall of 1945, at the instigation of the Los Angeles Police Department for the purpose of investigating causes and possible cures and treatments of sex degenerates, a civic committee was created. On this

committee there was one representative of the superior court, the district attorney's office, the sheriff's office, the police department, the medical profession, a psychiatrist, several members of the clergy and myself as representative of the Los Angeles Municipal Court. Numerous meetings were held and the problem was thoroughly investigated. While serving on this committee the representatives of the medical profession and the psychiatrist, whose names I cannot divulge but suffice it to say they are men of very high reputation in their professions, stated that there was no cure. The psychiatrist advanced the contention that the best that is to be hoped for in treating these people, is to educate the sex degenerate to restrain himself from committing acts of sex degeneracy. But it may be said in passing, it is like the person who takes an alcoholic cure there are frequent occasions when they do not refrain from taking a drink.

In the month of November, 1947, I was requested to participate in a symposium conducted in Lebanon Hall at Cedars of Lebanon Hospital, and there advanced the same opinions that I here present to your committee. Included in the discussion were medical men from the staff of the hospital, endocrinologist and psychiatrists. The medical doctor stated, "In the entire history of this hospital, I know of only one case where I can honestly say that we have been able to be of any assistance, and this involved a young boy who had only previously engaged in acts of sex degeneracy and had not become sufficiently addicted to this practice to be hopeless. It is my opinion that once addicted there is no cure." The endocrinologist discussing the use of hormone treatments stated that they were absolutely unsuccessful and he knew of no case where any satisfactory or even slight improvement had been noted. The only professional man there present who contended that assistance could be given to the sex degenerate was the psychiatrist.

I have repeatedly stated and insisted that no psychiatrist nor member of the medical profession can produce a single individual who has become an addict to sex degeneracy and has been cured, and I respectfully request this committee, in the course of their investigation, to ask one medical man or one psychiatrist who advances the contention that cures can be effected to produce one case that will prove to your satisfaction that such results have been accomplished.

I have on innumerable occasions presented these facts before service groups, women's organizations and P. T. A. groups throughout Los Angeles County and have for 10 years invited any doctor or psychiatrist to show me any case that has been cured, and not one has been presented.

Coincident with this writing, I inquired at the Los Angeles City Jail and found that we now have housed in that institution 74 sex degenerates. Compare that figure with the 25 I mentioned as being confined in my letter written to the Governor in 1943 and note the increase. No good is being accomplished by their detention except as previously indicated in this paper, that is their present restraint results in their inability to contact society.

While it is all well and good to suggest that courts be assisted in these cases by medical doctors and psychiatrists, I personally do not

believe that this advice will be helpful for any particular purpose so long as the facts demonstrate that no cure can be accomplished.

I believe, also, that it would be well for all the judges to have made available to them the information which is gathered by your committee. Few of them are sufficiently informed on the serious effects which this type of social adult delinquent has on society generally.

On the question of punishment, they are as far apart as the points of the compass. Some are inclined to treat the problem lightly. This, I am sure, is due entirely to lack of knowledge of the seriousness of the problem. Others, like myself, may be inclined to treat it too seriously.

In closing, may I respectfully suggest to your committee certain amendments to the existing law which I believe would be helpful:

Chapter 4, Section 5500, of the Welfare and Institutions Code, setting forth the definition of a sexual psychopath, should be amended to delete in its provisions the present phraseology which confines the application of the procedures set up in that chapter to those who are guilty of sexual offenses against children and persons having a so-called psychopathic personality. To be more specific, as is indicated from the chapter, the law now provides only for procedure to deal with individuals who have committed a crime, and is confined principally to those whose offenses are against children. It is not broad enough. It should be so worded as to include all persons falling within the classifications of sex degenerates, regardless of whether it may be against a child or an adult.

The procedure set forth in Article 2, Section 5400, and companion sections, of the Welfare and Institutions Code for dealing with dipsomaniacs could be followed in amendments to Chapter 4. However, it is to be noted that the maximum period during which such persons may be detained is fixed, in most instances, at two years. There should be an unlimited provision and the law should be so enacted as to provide for their confinement until cured. A separate state institution should be created in which confinement of this type of individual could be accomplished.

It is a well-known fact that in our state penitentiaries these individuals confined therein are continuing to practice their acts of sexual degeneracy upon other inmates. This has presented a serious problem to those charged with the responsibility of operating our penal institutions.

After all, gentlemen, our public health programs for years have required that persons who were carriers of contagious diseases be isolated from society, and this as we well know is a protective measure. They are quarantined and are not released until they are no longer contagious. The same attitude should be adopted in dealing with the sex degenerates. You make this law broad enough to include every known sex degenerate, and simple enough to handle it as indicated by the procedure set up for dealing with the habitual inebriates and there will be an immediate exodus of the vast army of sex degenerates who are now making California their home, and for those who remain we will have a suitable means of confining them.

The medical profession and the psychiatrists are to be complimented, of course, on their continued efforts to control this problem as with all other problems with which they do not have the answer, such as cancer, and it is not my intention to minimize or criticize their accomplishments in this field. It is to be hoped that they will eventually find a solution to the problem.

The establishment of a state institution, where all sex degenerates may be confined and be given such treatments as are known to medical science and psychiatrists, will provide a proving ground for their further research in this field, and when the time comes that positive cures can be accomplished that fact will be demonstrated from the results accomplished in such an institution.

Until then, gentlemen, it is essential that sex degenerates be confined in institutions from which there is no possibility of parole or release. As the matter now stands, courts are accomplishing nothing, either for the benefit of the sex degenerate or for society.