

CHAPTER XI
CONCLUSIONS

The subcommittee has been in session since December, 1949, when it held its first public hearings on December 7, 8 and 9. It has been conducting its study since that time and now presents a preliminary report. Herewith are the preliminary conclusions the subcommittee has reached at this time. There are additional facets to the sex crime problem not covered in the conclusions which the subcommittee would like to pursue in the future and will report to the 1951 Session as required by the resolution creating this study.

A. VASTNESS OF THE PROBLEM

Violations of the laws of society in relation to sex crimes is not a new problem. It has existed from time immemorial, even to the extent that reference is made to it in Biblical law. It is one of the most aggravating types of offense. It is often brutal and usually insidious. Its victims are young and old, male and female. There is no group in society that is not affected upon occasion.

The substantial incidence of sex offenses makes the problem a serious one. It has been reported to the subcommittee that a high percentage of citizens could be prosecuted for violation of one or more of the sex laws if all incidents were reported that are now enumerated as sex crimes.

California has not been engulfed by a wave of sex crimes. There has been no great increase in the number of sex crimes, and the percentage perhaps has dropped in proportion to the rise in population. The "wave" of sex crimes is no more than the chance occurrence of one or two heinous crimes which received wholesale newspaper publicity.

The difficulty of the problem is increased by the fact that the sex offender does not fall within any one classification. Sex offenders come from all strata of society. They run the gamut of sociological and psychological characteristics. They seem to have little in common except their behavior. There is no specific evidence that the behavior is an hereditary trait. It is practically impossible therefore to predict, on the basis of any known criteria, what individuals will be implicated in serious sex crimes.

B. PRESENT LAWS

The present sex crime statutes in California are extremely comprehensive. They provide a prohibition against any conceivable sex deviation. There is nothing that can be added in the way of prohibitions.

The present penalties are severe. In fact, they are as severe as those of any state in the United States. There are modern studies indicating that additional severity is not a solution. In the light of this, there should be no wholesale increase in penalties pending results of studies as to the deterrent effects of increased punishments.

There may be exceptions to this rule. It may be advisable to change the law relating to punishment of certain types of offenses by adding the so-called "Little Lindbergh Act." This would provide a greater penalty for certain violations where the victim has suffered great bodily harm.

The jury would be allowed to recommend to the court that the death penalty or life imprisonment be imposed upon the defendant.

C. CRIMINAL LAW—ENFORCEMENT PICTURE

Although the laws are adequate, they are not being enforced. There are a number of factors which interfere with successful law enforcement.

1. The Public Fails to Support Prosecution

The public, especially the victims and the victim's family or neighbors, often do not support law enforcement. Victims fail to preserve the necessary physical evidence. They may unwittingly destroy clothes or stains, or prints. Their delays in reporting may result in contamination of the evidence and its later disqualification for court use. Victims are unable to supply information. They may be distracted by hysteria, or incapacitated by their youth. Victims are unwilling to supply information. They are often reluctant to repeat details of attacks and are embarrassed by and afraid of the attendant publicity. They are hesitant to report a friend or neighbor for fear of reprisal. And the families wish to avoid publicity or to protect the victims from the psychological impact of proceeding with the prosecution. Thus even where a report is made, the victim and the victim's family are often unwilling to testify.

2. Investigative Technique

Proper investigations of sex crimes are not made. Many law enforcement agencies do not have adequately trained personnel to investigate appropriately an alleged violation. The investigation of a sex offense requires particular training. Police personnel must be very tactful in dealing with people, both victim and witnesses, and must satisfy the victim that the matter will be handled in a discreet manner. It requires a special type of personnel. They must be quick thinking and energetic in acting to preserve physical evidence. They must be scientifically expert in utilizing laboratory equipment.

Large jurisdictions are reasonably well equipped to handle this problem but smaller communities cannot reasonably support individual crime laboratories or training programs. Therefore the State and/or the Federal Bureau of Investigation should offer training help and laboratory facilities to assist in the solution of the problem.

3. Low Rate of Convictions

It is evident that a low rate of convictions is being obtained when the convictions are compared with the offenses reported. There are several reasons for this low conviction-ratio.

(1) It is often determined that no violation took place. Sometimes an alleged child victim has merely imagined the facts, heard them from some other source, or invented them to protect a boy friend. (2) Sometimes the victim fails to identify the suspect. (3) The suspect arrested has been charged by the officers with having committed a felony when in fact the evidence only justifies a misdemeanor charge. This may be due to the fact that the officer did not see the act committed and does not desire to take time to get a complaint. He therefore arrests the suspect for a felony for his own (the officer's) protection. (4) Often no violation occurred and the arrests were so-called "rousts" on the part of law

enforcement. (5) There is often insufficient evidence to result in a conviction either because the investigating officers have been neglectful or careless in preserving evidence and conducting the investigation, or because the victims have unwittingly destroyed part of the physical evidence, or because the physical evidence has been contaminated and thus disqualified for court use. (6) Prosecuting officials are desirous of obtaining as high a conviction rate as possible and thus reduce the charge in order to get some type of conviction. (7) There is difficulty in establishing corroboration for the testimony of a victim in a case where it is needed because he is old enough to be an accomplice. (8) The available testimony does not hold up in court. (9) The jury will not convict when the penalty seems inordinate to the offense. (10) Many times the good reputation of the defendant in the community is such that a conviction is not obtained. (11) Some courts and juries are not desirous of sending a first offender or someone of good character to a penal institution. Also some authorities do not desire to send homosexuals to a penal institution. (12) Other factors are the inadequacy of investigative and prosecuting personnel, the lack of preparation of prosecuting officials, a lack of a consistent judicial attitude, and the questionable practices of some attorneys.

4. Rules of Evidence

The subcommittee concludes that there is a very definite conflict of opinion among authorities as to the good or bad effects of the following rules connected with evidence before the court.

1. A rule requiring more evidence, the corroboration rule. Under this rule a corroboration of the testimony of the complaining witness is required if he is of sufficient age to be an "accomplice" rather than a "victim." This is the requirement under Penal Code Section 1111.

2. A rule restricting the admission of certain evidence, the prior sex crimes convictions rule. The issue here is whether or when evidence of the defendant's conviction of previous sex crimes is admissible.

3. A rule requiring a cautionary instruction to the jury regarding the weight to be given certain evidence, the cautionary instruction rule. The court is now required in certain cases, by California case law, to give a cautionary instruction to the jury to the effect that the testimony of a child under a certain age should be viewed with caution.

We do not believe any change should be made at present until we can complete this study.

5. "Floaters"

A factor which contributes to the lack of successful law enforcement is the practice in some courts, particularly in the smaller communities, of giving a "floater" in the lesser type of sex violations. The attitude evidently is that this will rid their particular community of that individual. This vicious practice only increases the over-all state problem because that individual may then become a charge upon another community. In addition, he will go to a community where officers will not be on guard against his propensities.

Your subcommittee believes that this practice should be discontinued at once, and all law enforcement agencies so advised.

6. Systems of Keeping Track of Sex Offenders

The subcommittee concludes that a system is needed for keeping track of sex offenders.

The Registration Act, California Penal Code Section 290, was enacted for this purpose. It is not being adequately used by law enforcement officials. If utilized it might assist in the problem of keeping track. Until it has been used and tested, it cannot be fully evaluated. Certain changes were made at the Special Session during December, 1949, which were designed to make the act more effective and universally used throughout the State.

Fingerprinting. In the past, the procedure of fingerprinting persons arrested for sex offenses was not adequately utilized by law enforcement agencies. Testimony at the hearings before the subcommittee in December, 1949, indicated this. Accordingly changes in the law during the Special Session in December were made. A statute was enacted with a mandatory provision that law enforcement agencies fingerprint all individuals arrested for any and all sex violations, and procedures were set up whereby all law enforcement agencies can receive value therefrom. The Bureau of Criminal Identification and Investigation should be informed by local courts of all convictions of sex offenders.

The subcommittee believes that fingerprinting would be of assistance in the screening of all doubtful personnel engaged in activities having constant contact with children.

7. Instruction to Children

Another factor contributing to the failure of law enforcement is that children are not in all instances instructed in the home and in the schools as to precautionary measures to safeguard them against sex offenses. At the Special Session in December, 1949, a resolution was passed whereby the Superintendent of Public Instruction should take all necessary measures to disseminate certain specific instructions to all school personnel, pupils, P.-T. A.'s and other cooperating groups.

8. The Press

The subcommittee concludes that an important factor in the successful prosecution of the sex laws is the effect of newspapers. Although freedom of the press is a constitutional right with which this subcommittee is in full accord, the subcommittee concludes that better cooperation on the part of the press would be desirable. Facts can be duly reported in the papers without the necessity of disclosing the name and address of the victim, and of going into minute and gory detail as to the manner in which the offense is committed. Many young children may be influenced by reading such statements. Furthermore, the subcommittee concludes that many offenses are not reported and many persons do not testify because they hesitate to evoke the harmful publicity which entails.

Withholding the victim's name and address is in line with the present exemplary policy of leading newspapers.

D. MENTAL ILLNESS—TREATMENT APPROACH

1. Sexual Psychopath Act

The subcommittee concludes that the Sexual Psychopath Act, Section 5500 et seq. of the Welfare and Institutions Code, is not being utilized to its fullest extent. The Sexual Psychopath Act is handicapped

in its administration by the problem of a concrete definition and the diagnosis of a "sexual psychopath." There is very little in the way of successful treatment available for persons who are committed as "sexual psychopaths."

The subcommittee concludes, however, that greater use of the Sexual Psychopath Act would assist in the elimination of persons who are a serious menace to society. Second offenders should automatically be checked to see if within the Sexual Psychopath Act.

2. Treatment Methods

The subcommittee finds that there is a great deal of valuable work proceeding in the area of treatment techniques. The results so far, however, are very limited. Psychotherapy has produced some positive claims of results but its techniques suffer from the fact that they are time-consuming and therefore costly. Surgery methods such as sterilization, prefrontal lobotomy, and castration have not developed any conclusive answers. In fact there are great dangers in the use of lobotomy and castration.

The subcommittee was unable to find any actual medical studies which supported the use of castration as a treatment method. Medication methods such as hormonal therapy, use of drugs, and shock treatment have so far produced inconclusive results.

3. Treatment Facilities

The subcommittee concludes that there are not sufficient facilities nor trained personnel to handle the "treatment" of all sex offenders, or perhaps even of all "dangerous sex offenders." The subcommittee concludes, however, that much research is needed as to what constitutes treatment before large facilities or excess personnel could be used profitably. Psychiatrists in state institutions are underpaid and have too great a caseload.

E. SEGREGATION

Considerable testimony was offered indicating that there is very definitely a problem as to where sex violators should be incarcerated. The testimony reflected that incarcerating these individuals does not solve the problem, and in all probability makes a greater existing problem in the management of the penal institution itself.

Testimony was further offered that incarceration of certain types of sex offenders did not offer a cure and merely served to quarantine the individual during the time of the incarceration. (As set forth in this report, some states are following the procedure of setting up a plan of probation and treatment in an effort to solve the over-all problem.) Testimony was also received indicating that these individuals are not mentally unbalanced to the extent that they should be confined in an institution for the insane. When they have been sent to a mental hospital, they add to the problem of the operation of that institution.

Testimony was also offered indicating that segregating them all in one institution would be justifiable, although presenting a vast problem in itself.

F. RESEARCH

The subcommittee concludes that above all, what is needed is research in three major areas of the sex crime problem.

1. Administration of Justice

Research into the administration of criminal justice should embrace all aspects of law enforcement.

a. *The Offended.* Answers are needed to the following questions. What is the reaction of the person offended, the victim? What damage does the victim suffer? What causes the damage? In what localities are victims generally attacked or molested, i.e., what are the danger spots in the community? What types of persons are generally victims of sex crimes?

b. *The Official.* The following questions need answering. What is the behavior of the enforcement officials when faced with a sex crime? How do the police conduct investigations? Why do they carry on certain arrest practices? How do prosecutors function? Why are their arrest-conviction ratios low? How do juries react to the problem? What are the judicial practices? How do probation officers respond to the defendant? What types of sentences are actually given under the Indeterminate Sentence Law? What are parole practices? What methods of the various officials are producing positive results? What types of personnel function best?

c. *The Offender.* The following questions are very pertinent. What is the effect upon the offender of the various processes of the law—arrest, arraignment, trial, prison, probation, fine, etc.? What acts as an effective deterrent?

2. Nature of the Sex Offenders, Diagnosis

There is much research needed into the nature of the sex offender. What are his sociological characteristics? What is his psychological makeup? What types of mental illness, if any, does he have? How can you determine in an objective manner that a person is a menace to society or that he has a propensity for certain conduct?

3. Treatment

Some methods should be devised for the cure or treatment of sexual offenders who are suffering from a mental illness and may be considered curable. This treatment may be medical in nature or it may be social. But more knowledge is needed concerning the motivation of human conduct, and the straightening out of the criminal.

We are not agreed on what agency should handle the research, but feel that the State should appropriate sufficient funds to make this study by representatives of penal institutions, mental hospitals, psychiatrists, enforcement officials, and lay experts.

G. COOPERATION OF THE COMMUNITY

It is the conclusion of this committee that the problem of sex crimes in California cannot be solved by legislation alone. It can only be solved by thorough and complete cooperation on the part of every citizen. This

means cooperation by the citizens in reporting and in testifying; cooperation of law enforcement in investigating; cooperation of all civic organizations and those dealing with children, such as schools, Y. M. C. A., Y. W. C. A., churches, Boy Scouts, Girl Scouts, etc.; cooperation of parents in the home in instruction; cooperation in the medical profession in research and in offering treatment; and cooperation of the offenders themselves in seeking and accepting treatment.

The final report of the subcommittee will be submitted in January, 1951.

APPENDIX

EXCERPTS FROM TESTIMONY**EXCERPT FROM TESTIMONY OF DR. NATHAN K. RICKLES**

DR. RICKLES: I am Dr. Nathan K. Rickles, private psychiatrist in Beverly Hills, California, formerly director of the Behavior Clinic in Kings County, Seattle, Washington, and at present chairman of the Professional and Scientific Committee of the Psychiatric Foundation of the American Psychiatric Association.

BECK: What is your address in Beverly Hills, Dr. Rickles?

DR. RICKLES: 9730 Wilshire Boulevard.

BECK: Thank you.

DR. RICKLES: I was here this morning and listened to some of the statements made, and I'd like to, if possible, at this time take a couple of exceptions because I think there is danger in too optimistic and too generalized statements to go on record, because psychiatrists are far from God and even God has made enough mistakes in this world already, and I don't think it should be incumbent upon psychiatrists to have to make too forceful statements in a field where there is still need for continued study and research.

BECK: Just for the record, Doctor, when you said God has made mistakes, you mean from your own human viewpoint—

DR. RICKLES: From my observations.

BECK: Yes. All right.

DR. RICKLES: I don't think it is fair to state that even with an extensive psychiatric approach to our present sex problems that there will not be continued sex murders and problems such as we have to face today; because that is a problem in human emotions that has to deal with our mores of society, and there is no telling, no matter how careful and deliberate and how wonderful our work can be, that people still won't react in an abnormal manner and still commit so-called sex murders. I do feel, however, that if we can, in an intelligent, thoughtful, understanding way, change our attitudes toward sex in general and towards abnormal sex behavior, we can in time eradicate a great deal of the misunderstanding and the unfortunate stigmatization to so-called sexual psychopaths, so that their difficulties will be more available and accessible to proper psychiatric evaluation and care.

I should like to state that, in my opinion, it is extremely urgent at this time that a calm, level-headed approach be taken to the problem of sex criminals. An hysterical, vindictive attitude will gain us nothing. Actually, there is no such thing as waves of sex crime, but what usually happens instead is that undue publicity and excitement serves suddenly to bring these occurrences to the attention of the public in a more forceful way than usual.

It is important to realize that so-called sex crime has been prevalent from time immemorial, as proved by the various and numerous injunctions, taboos and restrictions set up in all societies throughout the ages, as well as by the stern laws and punitive measures adopted by all religions and nations in an effort to curb such acts. It is equally obvious that all such measures have been ineffective. It is time now that we make an effort, instead of forbidding, to understand what motivates abnormal sexual behavior. We should become aware that what is called abnormal



what is considered normal sex behavior. Due to certain inherent or environmental factors, some individuals are unable to adjust to the mores and demands of our society and so they manifest antisocial behavior in many different ways, of which sex is only one facet of a complex pattern.

It is my belief that sex offenders should not be treated any differently than any other type of lawbreaker. I feel that once an antisocial act has been committed, the offender, if adjudged sane and legally responsible, should be put on trial as are all other offenders and if found guilty, should be sentenced in the same way. Sex murders should be approached on the same basis as murders for any other motive. The particular facts in the present case or cases of sex crime in California should not be influencing factors when considering ways and means of dealing with sex offenders in general, nor should they have any bearing on present or proposed legislation to deal with this problem. We must recognize that if we automatically establish the death penalty for sex crimes, as has been proposed in the newspapers, we will be going backwards in our culture to the times when kings and despots could arbitrarily decide the fate of any individual. In a free country and society, this should never be permitted.

To speak intelligently on this subject, there should be some scientific study to use as a comparative basis and understanding of what constitutes abnormal sex behavior and what are the characteristics of the so-called sex perverts or offenders. The most extensive and complete study of sex cases is New York City's Report of the Mayor's Committee for the Study of Sex Offenses, which deals with nine specific types of sex crimes which came to the attention of the police, the district attorneys and the courts throughout the City of New York during the ten-year period, 1930 to 1939. The offenses selected for study were forceful rape, statutory rape, carnal abuse, sodomy, incest, abduction, seduction, impairing the morals of a minor, and indecent exposure.

Conceding that statistically portrait characteristics are merely surface indications of personality, the report nevertheless presents a factual picture of the sex offender based on statistical findings. The foremost fact is that sex offenders form no set type physically or mentally. They are usually of average intelligence; far from appearing brutish, many seem timid and self-conscious, shrinking from all contact in a shamefaced, evasive way and refusing to face the facts of their behavior.

Youthful sex offenders, men between the ages of 16 and 30, accounted for 59 percent of the total convicted, though men over 31 were chiefly responsible for indecent exposure. Single men predominated, accounting for 60 percent of the offenders. Eighty percent were white, thus refuting a popular belief that colored people are responsible for a large percentage of sex crimes. Another theory, that transients and the migratory play a large role in sex crime, was proved to be a misconception by figures that showed that 76 percent had been residents of the City of New York for at least 11 years; only 2 percent had been there less than a year. Nor were the majority homeless floaters; ninety-seven percent either had their own homes or were living with relatives.

The report shows that the distribution of sex crime tends to follow the distribution of population more closely than other types of crime, that it is more of a social and economic problem than a physical one.

and indecent exposure. In the latter years of the study, there was marked increase in the number of arrests for indecent exposure. First offenders were the majority, dispelling any suspicion that the recidivist is most to blame for sex crimes.

About 6 out of 10 had no criminal record, and even the remaining four had usually been previously arrested for other than sex offenses. The fact that two-thirds of the offenders convicted in 1930 failed to reappear in police lineups after the lapse of a decade is further proof that sex crime is not habitual behavior with the majority of offenders. Of the repeaters, indecent exposure accounted for several convictions. The most significant sentences involved four men convicted of indecent exposure who were later adjudged insane and committed. None appears to have undergone medical or psychiatric examination upon his first conviction. The report emphasizes, and my own experience confirms this, that true exhibitionists seldom, if ever, go beyond the simple act of exposure. They make no attempt to attack or molest and, as a result, they are not actually dangerous to society. They certainly do not fit the public's mental picture of a sex maniac.

The report concludes that the sex offender differs little from other kinds of offenders. Often he is a social, economic, as well as a personality problem. Any attempt to study him, therefore, must embrace the whole person, not merely the sexual side of his makeup.

The success of any treatment program depends largely on the attitude of society. The courts, the prosecuting attorneys, the police, and all others involved should be brought to take a new and more enlightened view of the problem. It is obvious that old attitudes and approaches are wrong. With the recognition of the sexual psychopath as a sick person in the majority of cases, it becomes possible to interpret his actions and so be in a position to help him. Punishment has failed in the past. What is needed now is a psychotherapeutic approach in which all the authorities concerned will cooperate. This does not mean that the sexual psychopath is to be pampered or coddled, but simply that the situation will be better, more speedily and more economically handled, if the agencies designated by society to deal with its problem adopt a mature and scientific attitude.

The sexual psychopath laws take due cognizance of these facts. However, it is one thing to establish and admit something in theory—that these offenders are sick people who need medical care—but another thing to put it in practice. The thought must be implemented by action and means must be provided so that such action can be taken. The present grievous lack of both means and action was recently demonstrated by an episode which took place in the Superior Court of Los Angeles, one of the many similar episodes which occur daily in courts all over the Nation. The *Los Angeles Times* reported the case of a sex offender who, originally sent to a state hospital for treatment, was returned to court jurisdiction when the hospital stated after about ten months—and this is June 18, 1949—that it could do nothing further for him. Appearing before an apparently enlightened and well-meaning judge, the man testified that his only treatment at the hospital had consisted of working 14 hours a day and that he had been allowed sufficient freedom to repeat the very offense for which he had been convicted. The judge remarking, "It seems that the State has money for every purpose but to reclaim a human being."

medical treatment under court supervision. This was certainly a step in the right direction and was highly to be commended. The question remained, however, as to how and where this man was to obtain medical treatment when no provision was made for it by the State.

I cannot stress too strongly my conviction that with every first offender, every sexual psychopath and every case of homicide, it should be mandatory that the individual receive a complete psychiatric, psychological and social study, and that this should be done either through public facilities expressly designed for the purpose or through private facilities at public expense. In this way, we would at least be setting the curative machinery in motion as soon as possible, and we would also be working toward a better understanding of curative procedures through the constant accumulation of scientific data as to the cause and effect of criminal behavior. Society at large must take its share of responsibility. It cannot run away from the problem, but must cooperate in its solution. This may be furthered by an enlightened mental hygiene program in schools, churches and homes, where sex can be openly discussed and properly evaluated, where personality defects and problems can be recognized early and given the benefit of psychiatric attention.

The foremost and best present organization to cope with sexual psychopaths are the Behavior Clinics. For those who are not familiar with the few and widely scattered Behavior Clinics now existing in this city, it may be well to explain exactly what their purpose is. A Behavior Clinic is an organization whose main function is the study, diagnosis and treatment of all criminal cases sent to it by the courts, the prosecuting attorneys, the defense attorneys and social agencies. Its personnel usually consists of one or more of the following: A psychiatrist, psychologist, psychiatric social worker and psychiatric nurse. It usually operates as part of the criminal court and makes all its reports to the presiding judge. Ideally, however, it should function independently of all law enforcement agencies in order that the offender should not suspect it of being a part of the legal machinery and therefore be prejudiced against it. If it were generally known that the clinic's decisions could not possibly be influenced except by actual facts, there would be more open acceptance and a greater desire to cooperate on the part of the offender.

These observations are based on my own personal experience as founder and director of the Behavior Clinic of King County, State of Washington. It was originally established as part of the prosecuting attorney's office and thus incurred a great deal of rightful censure. During the clinic's first year of operation, its findings were received with great doubt and questioning and were sometimes rejected entirely. However, when the defense attorneys and the judges recognized the objective nature of its reports, they made a complete about-face and wished to utilize its services in every criminal case. This was opposed by members of the prosecuting attorney's office who were intent on limiting the functions of the clinic for their own personal gain. I found it necessary to engage in almost open conflict with them in order to defend the clinic's right to discharge its primary duty—the impartial investigation of the factors that motivate abnormal behavior, and, through psychiatric treatment, the restoration of offenders to society as normal, useful individuals. I also stated at that time that intimidation and threats of incarceration

term "prosecuting attorney" as being by implication directly contrary to the function of protecting the public which that office was supposed to serve.

There are at the present time only seven behavior clinics operating in six cities of the United States. There are two in Chicago, and one each in New York, Baltimore, Pittsburgh, Cleveland and Detroit. These clinics have been in existence over a period of many years and have proved themselves to be a great value to the courts. Unfortunately, however, their use has in many cases been limited to establishing whether an individual is mentally sick or not. A broadening of the function of these clinics by using them to determine the individual's mental status would greatly increase their value and would provide the judge with a comprehensive survey of the individual's total personality, together with specific recommendations for his or her medical care. This might be opposed by the courts on the ground that medicine would be encroaching on jurisprudence, but such resistance to progressive constructive change is likely to be overcome if met with convincing facts and explanations of the value of psychiatric help in determining the final disposition of many puzzling criminal cases. Diagnosis of the offenders as sick people changes the entire picture so far as sentencing is concerned. The judge cannot be expected to assume this responsibility. He is not a doctor and cannot make a medical decision. Instead, he should welcome assistance from qualified medical sources so that justice may truly prevail and offenders be given an opportunity for rehabilitation. With such teamwork, society would be saved much of the time and money that is now wasted on lengthy trials and ineffective terms of institutional care.

The seven clinics now in operation saw 11,425 individuals in 1948, at a combined total expenditure—I think this will be interesting—of only \$323,745. In other words, all seven clinics actually spent three hundred twenty-three thousand dollars during the entire year.

There is practically no community of 100,000 or more that could not afford a clinic set-up to take care of its needs and those of smaller communities nearby. The expenditure is so minor when compared with other outlays, and the promise of return in principal and dividend is so great, that this should be the first item on any civic or state agenda. Where it is difficult to obtain the full-time services of a psychiatrist, a man in private practice could be utilized on a part-time basis. Simultaneously, established agencies should give impetus to the program by training young psychiatrists for this specific field. The American Board of Psychiatry and Neurology should add its encouragement by giving at least one year residency training recognition to such men. In this way, well trained psychiatrists would soon be available and ready to accept their responsible role in community service. The various states which have passed laws for the care of sexual offenders should implement the laws and make them truly effective by providing funds for the establishment of Behavior Clinics in their larger cities. The old cry that there are not enough psychiatrists to staff such clinics is not based on fact. In every city there are skilled and experienced men who will be happy to be a part of such a progressive program. It is essential that all thoughtful, forward-looking physicians, lawyers, jurists, law enforcement officials and social workers marshal their forces for a concerted appeal to the

public for the establishment of these clinics. If the public were made aware of the vital role they would play in returning to normal life hundreds of so-called sexual psychopaths each year—who may be relatives of theirs or friends—of the ease with which they could be established and of the saving in money and human misery which they could effect, the demand for them would be immediate and imperative.

The alternative is an increase in our already desperate social situation, with increased taxes to pay for increasingly crowded courtrooms, prisons and state hospitals. Since all intelligent people concerned with this problem admit freely that our past methods of dealing with it have not been successful, let us now proceed forward with new but proven weapons, in order that justice may truly be tempered with mercy.

EXCERPT FROM TESTIMONY OF DR. DAVID DRESSLER

DR. DRESSLER: I'm David Dressler, appearing for the Southern California Society for Mental Hygiene.

After listening yesterday and today to those who have already made statements, I doubt if I can add anything new, maybe the reiteration of certain points will give the matter referable emphasis. So speaking then for the Southern California Society for Mental Hygiene, which is grateful for the opportunity to appear before this Committee, I'll address myself to the three main points we were asked to discuss.

What do we see as our responsibility with regard to the problem of the sex offender? We're a private nonprofit organization of lay and professional people for the promotion of mental health. We're a coordinating agency, furthering so far as possible a constructive action toward getting for each community the places it needs to protect children and adults from mental and emotional breakdowns. The subject of sex crimes concerns us, because the sex offender is made, not born. No one comes to life with a gene in his chromosome, predestiny in his sex offense, or any other offense. The virus of abnormal sex life is implicit in how we raise our children, our teaching methods, the wholesome or unwholesome nature of family life, our cultural concepts, taboos regarding sex. Our emphasis, therefore, is on treatment and even more on prevention. But we're in complete accord with those who emphasize that public protection must be a first consideration. The already existing dangerous sex offender must be removed to safe custody for society's good. We propose only that the State go a step further and interest itself in preventing sex crimes. Many, many sex offenders are going to be born tomorrow, next week, next year. Thousands of today's children will be tomorrow's psychological cripples, unless something is done for them now. If we can prevent the birth of a career in sex crime, we have performed a service to society and to the individual concerned. This is a most satisfactory answer to the problem, because it locks the stable doors before the horse is stolen. To punish the offender after his act, may satisfy our sense of justice, but it doesn't do much to have swayed the anguish of the parents of a murdered child.

You asked us to comment on our experience with the problem of the sex offender. Our experience leads us to say that writing a law itself is not the answer. You can't pass a law making it illegal to want abnormal sex life, only acts can be legislative, not emotions. You can force me to stop beating my wife, but you can't force me to stop wanting to beat her. The all important question is, how can we help people grow up so that they don't want to commit sex offenses?

As to suggestions, first of all, we urge that in seeking remedies, we refrain from dashing off madly in all directions suffocating our purpose. We've lived through a series of cycles of public alarms, focused around a given spectacular sex crime, and there is a discouraging sameness about the pattern of each cycle. The crime is committed, you're outraged, we demand: Fire the police chief, reorganize the police department, get rid of the parole board, set up a vigilante committee, asexualize offenders, make the penalty for sex offenses death, above all we cry pass a law. Then the agitation declines, nothing fundamental has been done, we're just about where we were before and we remain in status quo until a new

cycle begins. I'm speaking here not alone for California, but over the Country at large, in states at least where I have worked.

The Southern California Society for Mental Hygiene has no panacea to offer as to control treatment or prevention of sex crime. We suggest instead, that no panacea is immediately available. We urge that all of us pause, take a deep breath, and study the situation and try to get those answers to our needs that will give us a unified overall long range attack on the problem. With this in mind, we advocate one specific step at this time, that some official body be appointed to study the problem, make recommendations, suggest programs. Such a group, we hope, would be truly representative, composed of lay and professional people and scientific in approach. It would try to discover what makes the sexual psychopath tick, until we understand that, we can neither help changing nor protect society affected. First, we dare to hope that such a body would seek and find answers to the following questions among many others.

First of all, who is the dangerous sex offender? The very term sex offender needs clarification. There are those who are technically sex offenders and others who are not only offenders under the statutes, but sexual psychopaths. The boy who, for instance, commits nonforceable statutory rape is quite distinct in makeup from the compulsive unstable person impelled to his crimes by motions beyond his control. The latter is our dangerous man, the sexual psychopath. He is the man we must fear most. It has been said here that no man is able to control his emotions if he really wants to, that he only claims this upon arrest. Well, Hierens of Chicago was a sexual psychopath who recognized his inability to control himself and said so before arrest. After murdering a woman in a hotel room, he scrawled on the mirror, "For God sake catch me before I kill again. I cannot control myself."

Beyond knowing who is the dangerous sex offender, we must ask what is the extent of sex crime? Is it on the increase in California? Are we in for a sex crime wave? In Los Angeles the indication is that there is no increase in sex crime. On a per capita basis, there were 75 sex crimes reported per hundred thousand population in 1940, and only 65 in 1948. The per capita rate has declined. Other counties reporting to you have found that at least the rate has not increased. Of course, this is only a moderate solace, as long as one sex offender walks the streets we have the problem but at least let us know what we're confronted with state-wide.

Another question that must be answered is, how can we get early identification and treatment of children and adults, who are just beginning to show symptoms of sexual maladjustment? That is, how can we get better prevention and treatment? Contrary to some opinion the evidence is, that some sex offenders can be successfully treated. Better still, some individuals who would otherwise become serious sex offenders can be prevented from forming such a pattern, if identified and treated early enough. Time and again when cases appear in court, a study of the background of the defendant leads us to say, what might we not have done about this man if we had been aware of his problems earlier? As to the possibilities of successful treatment, which apparently is a very controversial question here, perhaps the more discouraged defenders are thinking of those cases that come to our attention after they are long habituated to sex deviation. Here the prognosis is indeed dismal. But those who study the research that's been done on the subject, know, that if caught early

enough many potential offenders can be successfully treated. In fact, the majority of those identified and treated as children are, in the first place, far from being dangerous and do work out their abnormal drive and become stable, wholesome personalities. Many have even cured themselves by maturation. Dr. Lewis Dosché, for instance, in his study of boy sex offenders, in his later career, found that young sex offenders identified early are just as satisfactorily in about 97 percent of the cases where no other criminal or delinquent pattern was present. By adjustment here, I'm not speaking from the standpoint of a psychiatric interpretation, but in terms of whether there was a repetition of a sexual offense. Helen Brauner reported 4 percent failures among youthful offenders studied and treated by them. I don't think we could always find conditions leading to hopeful results, but at least these findings point to the importance of preventive treatment. At least let's lay the ghost of the assumption, that no sex offender ever changes. But to achieve results, we need adequate clinical facilities. The Mental Hygiene Society has long sought to enrich child guidance facilities in this area. We've urged that psychiatric consultants be available to all schools, for conference with teachers, for diagnosis and treatment of children. The school is the most important focal point of all, for early identification and treatment for maladjusted children. All youngsters go to school, and all are constantly under observation. School and community clinics are an absolute essential, if we intend to prevent the development of sex offenders. One million children in public schools today will spend some part of their lives in mental hospitals. Not all these patients will be sex deviates, but many will be. We could save many of these children from breakdown, if we had sufficient out-patient clinical facilities. Metropolitan Los Angeles has six clinics, most of them part-time, to service its 700,000 children. Less than 1 percent of these children received some mental hygiene service in 1946, when this problem was surveyed. Estimated needs stood at 10 percent. A child today must wait as long as eight months before beginning needed treatment. If we do not meet this need, we're inviting disaster to hundreds of children yearly. We're making an underfinanced moral gesture. We're permitting the horse to be stolen because we won't pay the price of a lock. As a specific challenge, the State Department of Mental Hygiene is proposing a clinic for Riverside. Will we get it? For adults we have eight clinics, patients wait up to eight months for treatment.

A very important feature of the problem of the sex offender is this, the great majority of defendants never get to the superior court or state prisons. They're discharged in lower courts or they receive brief misdemeanor sentences to city and county jails. They go in and out, in and out, because the seriousness of their condition isn't sufficiently recognized. They're treated mostly as nasty old men. This represents a revolving door penology in which the person who goes in on a Monday, comes out a week from next Tuesday, without the slightest change in his personality makeup. If I may interpolate something within my own experience in another state, a notorious sex offender, Albert Fish, was in and out of the courts for something like 30 years, never getting a sentence of over 60 days because he wasn't recognized as anything except a nasty old man, until it was discovered that he had murdered about 20 children by sticking needles in them. He was a sadist. There are also

thousands of cases of what may be termed hidden psychopaths, who go through our courts unrecognized, for the sexual psychopath looks and in most cases acts quite normal. He is not readily recognized, unless specifically arrested for a sex offense. But often his arrest is technically for something else, even though the defense has a sexual component. For example, some burglars are really fetishists who break in not to steal, but perhaps to snip off a lock of a sleeping woman's hair. Hierens was a fetishist; he'd been arrested for burglary, but it wasn't recognized, that he really sought sexual gratification from stealing women's garments. In these lower courts, we get the bulk of our sex offenders. We, therefore, hope that some official body considers this question; should and can there be statutory provision to the effect that at the point of arrest, or shortly thereafter, perhaps after arraignment, every person accused of any offense in which sex deviation played a part, be examined psychiatrically, the findings to be made available to the court, so that appropriate adjudication may be made? In this manner we would turn up many otherwise hidden psychopaths. And can we get some psychiatric treatment inside city and county jails? Now, I realize, not much in the way of cures can be expected in 30 or 60 days, but treatment begun inside can be continued outside, once the inmate has begun to feel the need for it and want to benefit from it, as many would.

Another question: are so-called midway institutions needed? The problem is this, the sexual psychopath is the forgotten man in hospital facilities. He's not insane, hence not committable, he certainly isn't completely sane either. But we have no provision for this hybrid. Some penologists, therefore, are advocating midway institutions as an answer to this dilemma. These would have certain advantages over either a prison or a civil hospital. They would receive offenders for a truly indefinite term. The institution, part hospital, part prison, would furnish absolutely safe custody. The patient couldn't sign himself out, and the institution would concentrate on treatment. The inmate would be released and returned to the court only if and when the superintendent could certify that he was cured of his dangerous sex drives. If such a time never came, neither would release. Recent legislation in this State goes in the direction outlined, but not all the way. Revised sexual psychopath laws permit voluntary, and in some instances nonvoluntary, commitment for internment terms, the hospital under the jurisdiction of the Department of Mental Hygiene. This, however, is not quite the same as a midway institution as the penologists conceived it.

Coming now to the question in the realm of public interpretation. How can we better educate parents to the fact that there is nothing shameful in admitting a mental emotional problem exists in a given child? Unless parents realize this, they will not seek mental hygiene help early enough. Mental illness is an illness, why be secretive about it.

Finally, can the State of California afford not to engage in a program of basic research in the causes and treatment of sexual psychopathy. The sex offender is an "X" factor in large measure, we don't know him, we haven't studied him. If we recognize that sexual psychopathy is a disease, like getting neurosis, like alcoholism, or cancer, then the offender requires scientific study. Yet for every dollar we spend on psychiatric research, \$2,500 is spent on industrial research, and human beings are infinitely more precious than things can give us.

In summation we should like to reiterate that we recognize public protection must be the primary aim. But our position regarding prevention, diagnosis, and treatment is socially utilitarian, not at all sentimental. Somewhere between the tear gas and the tear duct school of thought lies a realistic approach, objectively and scientifically focused, one that will pay off. That's what we advocate. Police controls are essential. The prevention would make those controls less necessary and extensive. By our emphasis on treatment, let me make clear, we mean treatment of the treatable, who might be returned to society so that they will not offend again. For the untreatable, we advocate safe custody as the only remedy in the public interest.