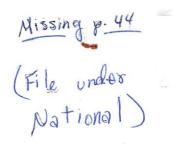
REPORT OF THE ILLINOIS COMMISSION ON SEX OFFENDERS



TO THE
68TH GENERAL ASSEMBLY OF
THE STATE OF ILLINOIS

SPRINGFIELD, ILLINOIS MARCH 15, 1953



MEMBERS OF THE COMMISSION

SENATE

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The Hon. Peter J. Miller - Vice-Chairman
The Hon. Clyde C. Trager
The Hon. Christopher C. Wimbish

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Louis de Boer, Executive Director Arthur V. Huffman, Associate Executive Director Dr. Samuel H. Kraines, Chairman Volunteer Advisory Panel Len Arnold, Technical Assistant

Letter of Transmittal

March 1, 1953

To Governor William G. Stratton and the Members of the 68th General Assembly:

The Legislative Commission on the Sex Offender appointed under "An Act creating the Commission on Sex Offenders and making an appropriation therefor" approved July 23, 1951 herewith submits the report of its findings and recommendations including specific proposals for legislation and for administrative action.

Respectfully submitted,

(Signed) Marshall Korshak, Chairman
Peter J. Miller, Vice-Chairman
William G. Thon, Secretary
Fred J. Hart
Clyde C. Trager
Christopher C. Wimbish
Andrew A. Euzzino
Samuel Kart
John G. Ryan
Will P. Welker

INTRODUCTION

This Report reflects the work of some 150 volunteers, including lay people and professional experts, assembled by the Illinois Commission on the Sex Offender.

The Illinois Commission on the Sex Offender was authorized by the 1951 legislature for the general purpose of making recommendations on the handling of the problem of the sex offender. It was appointed in lieu of the passage of a Bill on the dangerous sex offender. This Bill, which had the support of a considerable number of people including enforcement officials and representatives of bar associations, had much to commend it.

It built upon the concept inherent in the 1938 Sexual Psychopath Law that the dangerous sex offender is not a criminal of the "ordinary" type, and therefore, in order to achieve adequate protection for society, he should be handled as a sick person in need of specialized treatment. In addition, this bill attempted a refinement of the definition of the term "criminal sexual psychopath" and developed the term, "sexually dangerous person," setting up criteria by which such a person could be identified. It also attempted to structure the criteria in such a way that official recognition of and action could be taken against persons who potentially were dangerous without the necessity of waiting for a crime to be committed by that person.

There were those who thought that however valid this approach was, there were too many implications and potential hazards in the proposal to merit its enactment into law without considerably more widespread discussion and study. The Mental Hygiene Committee of the City Club of Chicago shared this point of view. While this Committee did not oppose the passage of the bill, it recommended that the bill be amended to include a provision for the appointment of a Commission to study the whole matter and come back with a proposal for revision in the 1953 legislature. Instead, the legislature decided to drop the bill in question and pass a bill proposed by Senator Marshall Korshak, together with Senators Libonatti, Smith, Parrish and Hart, calling for an intensive study of the problem by a legislative commission.

The Commission was given an appropriation of \$7,500 with which to accomplish its purpose; a small enough sum considering the sizable amounts spent in other states by similar commissions studying the same problem.

Lack of money was regarded by the Commission not so much as a handicap as a challenge and it set about to accomplish its task. Several members of the Mental Hygiene Committee of the City Club were appointed as volunteer technical advisers to the Commission. The Department of Public Welfare loaned the part time services of a staff member, who was appointed executive director, and the Department of Public Safety similarly loaned a person as associate executive director.

The official work of the Commission got under way with holding open hearings for two days in the Conrad Hilton Hotel in Chicago on November 29-30, 1951 to take advantage of the psychiatrists who were attending a meeting of the National Association of Mental Health at that time. Because of this fortunate concurrence testimony was taken from psychiatrists from all over the United States as well as from England. Subsequently, hearings also were held in Peoria and Springfield, Illinois.

Public Hearings were deemed an important function of the Commission and many good ideas were gleaned from all of these hearings. In addition, they gave the Commission an opportunity to assay public opinion on a matter which is uniquely affected by public opinion.

However, it developed that public hearings were not enough. The subject was too complex to rely exclusively on public hearings. Accordingly, the Commission assembled a group of some 150 volunteers representing many professions - law, medicine, social work, psychology, education, sociology, anthropology, etc., as well as enforcement officials and the lay citizen for the purpose of giving this subject careful study and making recommendations.

This group was convened on April 19, 1952 in the State of Illinois Building. The morning general meeting of the total group consisted of a briefing session. Afterwards the group was divided into five work shop sections who were asked to do a fact-finding job in five major areas; (1) What do the relevant scientific disciplines know about the nature of the sex offender? (2) What do the relevant scientific disciplines know about the treatment of the sex offender? (3) How is the problem being dealt with in Illinois? (4) How is the problem dealt with elsewhere than Illinois? (5) What are the characteristics of a preventive program?

At these several sessions, chairman, recorders, and coordinators were elected by the five groups and preliminary discussion of each area topic, based upon general work outlines, supplied by the Commission staff, was begun. Participants were supplied, also, with appropriate bibliographical lists and reference material and, before the meetings concluded, individual work assignments and future groupal meetings were scheduled.

Coordination between these five pre-conference fact-finding groups was achieved through meetings of the leaders of the various groups and the staff. At these conferences, problems of duplication, definition of terms, etcetera were resolved.

The several work groups determined their own methods of study and procedures, and managed their own gathering of facts through their own or agency resources.

Each work group devoted unusual time and energy to its assignment. The number of meetings varied with groups, but in at least one instance ran over 10 meetings in addition to individual assignments.

All the work groups finished their tasks on schedule, emerging with reports in time for distribution to conferees prior to the Conference on September 25 and 26, 1952.

At the Conference itself, the participants divided into work groups as follows: (1) Diagnostic and Extramural Treatment Services; (2) Institutional and Post-institutional Treatment Services; (3) Prevention Programs and (4) Framework for Sex Offender Laws, in order to consider the implications of the fact-finding reports as they concerned these four aspects of the problem. Leaders of these groups reported their resolutions to a joint session of the conference prior to its adjournment.

A Conference Report Committee was appointed to put the findings of the Conference into publishable

form and to prepare a set of definitive proposals based on the findings of the Conference and amenable for legislative action.

Thus, what was called the Conference on the Sex Offender had three phases: the preliminary fact-finding phase; the Conference itself and the post-Conference follow-up work of the Report Committee.

It is of interest to note that the joint and several reports show striking agreement on fundamentals arrived at by representatives of different disciplines working independently of each other. These data now may form a framework upon which the Commission may build its administrative and legislative recommendations to the Sixty-eighth General Assembly.

The summary report and recommendations on pages l - 6 are, in fact, the definitive proposals worked out by the Conference Report Committee on the basis of the Conference discussions except for changes noted in the footnotes. In presenting these proposals to the Commission the Report Committee said:

STATE OF ILLINOIS --- SEX OFFENDERS COMMISSION

February 18, 1953

The Honorable Marshall Korshak Chairman, Sex Offenders Commission 134 North La Salle Street Chicago, Illinois Dear Sir:

I have the privilege to present herewith the distillation of the findings and recommendations of the 150 lay and professional persons who spent the better part of the year 1952 studying the problem of the sex offender under your sponsorship.

The data gathered by the several pre-conference fact-finding work groups and the findings of the Conference on Sex Offenders held in September 1952 have been submitted separately for the information of the Commission.

The problem of the sex offender is as difficult as it is important. The 150 volunteers worked arduously and conscientiously to develop information and recommendations based on the best current scientific data and experience in this and in other countries.

We are not so sanguine as to believe that the problem of the sex offender automatically will disappear with the adoption of these recommendations.

However, if they are adopted and conscientiously applied by competent personnel, supported by adequate appropriations, they offer the best framework for protection we can devise on the basis of present day knowledge.

The opportunity of working with a legislative commission in the exploration of a legislative problem has been a stimulating experience. You and your Commission are to be highly commended for having utilized citizens on a volunteer basis in the way you did. To our knowledge it is unique in the annals of legislative functioning and offers great encouragement for the extension of the democratic process and the introduction of scientific data into the process of legislation.

Sincerely yours, (Signed) Francis Allen

Francis Allen, Chairman
Conference Report Committee

Professor Francis A. Allen, Chairman M. Edward Abram Dr. Walter H. Baer Rt. Rev. Msgr. W. J. Cassin Judge John C. Cowing Professor Frank T. Flynn Charles F. Harding III A. Arthur Hartman Rev. Vincent Herr, S. J. Dr. Rudolph Dreikurs Judge Joseph Drucker Dr. Edward J. Kelleher Professor Edward Levi Joseph D. Lohman Henry D. McKay
Lloyd Ohlin
Erwin Roemer
Mrs. Sarah B. Schaar
Dr. Groves B. Smith
Dr. Edward H. Stullken
William Szarat

Committee with certain minor changes. All of these changes are noted in the footnotes.

In its meeting on March 6, 1953 the Commission studied and adopted as its own the Summary report and recommendations of the Conference Report

General Considerations

The basic object to be attained by the legal system in dealing with offenders generally is the protection of society by proscribing certain well-defined modes of conduct or acts of behavior on the part of citizens and by creating or authorizing the establishment of facilities and services for the detention and rehabilitation of offenders so that they may no longer be dangerous to the health and welfare of society generally. From another point of view, the protection of society includes not only the protection of the interests of the community as a whole, but the protection of the individual rights of its members as well. Consequently, legislation dealing with the problems of sexual misconduct should be concerned with protection of society and the rehabilitation of the sex offender.

In the area of sexual conduct, the primary dangers from which society requires protection are: (1) conduct involving the use of force, and (2) conduct involving a substantial age disparity between offender and his victim. Experience has demonstrated that certain kinds of sexual conduct, while socially distasteful, are not socially dangerous. Efforts on the part of the legal system to suppress such conduct generally have failed. Further, a substantial body of scientific data exists which indicates that sexual conduct of the socially distasteful kind characterizes such a large portion of the population that if the law were enforced effectively there likely would be more people in jail than out. Saddling the legal system with obligations it cannot perform successfully impairs its effectiveness in performing its vital functions and brings the institution of law enforcement into disrepute. Further, the existence of statutes which generally are not enforced by common consent offers opportunities for vicious police practices.

The portions of the Illinois Criminal Code dealing with sex crimes need revision to distinguish more clearly between the socially dangerous and socially offensive conduct. Recommendations 1 - 6 include cases in point although no attempt has been made to make detailed or comprehensive recommendations regarding revision of this portion of the Criminal Code.

We would suggest, however, that the statutes covering sex offenses be highly specific in definition rather than characterized by such general terms as "sex offenders." The term "sex offenders" describes a highly variable and heterogeneous group of persons, with many different types of personal and social problems.

The statute covering the criminal sexual psychopath has been a matter of major concern. There are varying schools of thought regarding the principles underlying such laws generally and the Illinois law, specifically. The opponents of the law hold, variously, that the term is bad because there is so much

confusion in the professions as to the meaning of the term psychopath. Almost every psychiatrist has his own private definition of the term and there is, therefore, a tendency to avoid using the term. Further, the combining of the terms criminal and psychopath confuses legal and scientific terminology to no constructive end.

Beyond these general criticisms, the opponents emphasize: (1) the difficulty of establishing clear criteria for identifying those who are to be committed under the Act; (2) the problems of procedural fairness to those proceeded against; (3) the problems of the constitutional privilege against self-incrimination; and (4) the difficulty of uniform application and enforcement of the statutes.

Those who favor the law refer to the progress which is represented in the law by its recognition of the importance of scientific treatment of a class of offenders. The law virtually takes the offender out of the usual classification of criminal and requires special handling for him. Furthermore, this principle has been tested in the courts and the validity of the Statute has been sustained. It is believed that this gain should not be discarded. For these and other reasons amendment of the 1938 Act is being recommended rather than its repeal. It is believed that the suggested amendments will result in greater protection of society as well as of the individual.

However, the real protection of society does not arise from words printed in a statute book. It really lies in the effectiveness of the application of the law from police work, through the courts, to the institutions and beyond. A law is no better than the effectiveness of its application.

For this reason recommendations have been made regarding administrative services. If adequate rehabilitative services are not provided throughout the penal system, undergirded with adequate funds and competent personnel, no amount of law-making will improve the situation and the public will have been lulled into a sense of false security.

The problem of the sex offender is not so much the inadequacies of our law as it is a failure to provide adequate and competent rehabilitative services.

There is great need also for effective coordination of police work in this field. The fact-finding reports cite the excellent control system on sex offenders established in the Chicago Police Department and suggest its extension to the whole state.

Further, most downstate areas have no resources to do as effective a job of socio-psychiatric diagnosis as is done for the courts in Chicago.

The Department of Public Safety should be equipped with the necessary authority and resources to effect a tightening of controls and coordination all along the line from enforcement to rehabilitation.

Recommendation No. 8 proposes the establishment in the Department of Public Safety of a Socio-Psychiatric Diagnostic Service. It is contemplated that this facility provide a diagnostic service available to all the courts of the state upon demand. It should be equipped with adequate security hospital facilities to enable the staff to perform prolonged studies when necessary as well as adequate personnel to travel throughout the state upon request of the courts. Since this facility would perform a dual function it is referred to as a Service rather than a Center. The central purpose of this Service is to provide to the courts of the state the necessary socio-medical-psychiatric skills in the diagnosis of defendants which will help the courts to make appropriate disposition of cases before it. Such a service long has been recognized as an outstanding need if we are to make any progress in attacking the problem of the sex offender.

Increasing the effectiveness of the Department of Public Safety is important also for the rest of the criminal population. The sex offender is not a unique genus. He is a human being with problems and effective rehabilitation will approach him as such. Many a person convicted of other crimes actually represents a problem in sexual adjustment. Exclusive concern with the overt sex offender thus does not cover many sexually maladjusted individuals. Similarly, many who are guilty of other crimes are motivated by the same drives as the sex offenders and frequently are more dangerous, certainly more numerous. In sheer self defense then, the same scientific approach should be applied to them also.

The most effective way of meeting the problem, of course, lies in the prevention of the offense. By its nature, a program of prevention is difficult to outline in a series of specific recommendations.

While the legal system plays a significant role in dealing with the problem it is not the exclusive concern of the legal system. The home, the school, churches and other social institutions have significant duties and obligations in this area. A series of general recommendations on a preventive program have been included in recognition of the importance of this approach.

Without in any way minimizing the seriousness of the problem of the sex offender, it is important to see it in perspective. While statistics vary, reliable estimates place sex offenses at about 3% of the total offenses reported by the police. In terms of numbers alone, then, there is no warrant for hysteria regarding the problem.

Further, the fact-finding reports emphasize that relatively few sex offenders are dangerous persons and that the so-called minor sex offenders do not as a rule graduate into dangerous offenders.

The really dangerous offenders, whether motivated by sexual impulses or otherwise (and the motives in these persons are usually mixed) are the real problem for society. Against them society must marshall its most effective means of protection. To this end the following recommendations are offered:

LEGISLATION

Classification of Sex Offenders The appropriate statutes defining sex offenses be reviewed.

Penalties for sex offenses should be framed after a careful evaluation of the social dangers of the conduct in question. In general, the most serious threats to society are created by violent sex behavior and that involving sexual molestation of children by adults. Accordingly, the greatest penalties should be reserved for these cases. The lesser danger of other forms of sexual misconduct should be recognized as requiring less sever penalties.

Courts of Record Department of Public Safety create a reporting system on persons charged with sex offences.

Presently many sex offenders are being tried - usually for "minor offenses" - by Justices of the Peace and other courts where no records are kept. The experience of these courts with such individuals is thus lost when and if the offender subsequently appears before a Court of Record on a more "serious" charge. It is suggested that forms be provided by the Department of

Public Safety whereby state's attorneys and other prosecuting officials may report incidences of individuals charged with sex crimes comparable to the system now used in the Chicago Police Department. ¹

Homosexuality Punishments for homosexual acts be modified to discriminate between socially distasteful and socially dangerous conduct.

Greater penalties should be reserved for violent and aggressive acts committed without the consent of the victim. A further distinction should be drawn between voluntary homosexual acts committed in public places, so as to constitute a public nuisance, and those committed in private. The former should be classed as a misdemeanor, at least for the first offense. Penalties should be provided for the latter acts where a substantial age disparity exists between the offender and his victims.

1 The Conference Report Committee had recommended that sex offenders be tried only in Courts of Record but the Commission thought that this problem could best be handled administratively by the Department of Public Safety.

Statutory Rape 4. At least for the first offense, a male defendant under the age of 21 shall not be found guilty of the felony of rape, when the element of force is not present, and the female is not below the age of 14 years, but shall be deemed guilty of a misdemeanor. If not incarcerated, the defendant should be placed under supervision or probation. In case of subsequent offenses by such younger defendants, greater penalties should be provided. Provisions should be enacted to protect defendants in situations in which the female involved is married, a prostitute, or promiscuous. The provisions relating to "statutory rape" require amendment. As these provisions presently stand they fail to distinguish adequately the greater from the less dangerous conduct, and provide opportunities for extortion and injustice.

Mandatory
Referral
to SocioPsychiatric
Service

5. In all cases of criminal proceedings involving sex felonies such as forcible rape, aggressive homosexuality, or the sexual molestaction of children accompanied by substantial age disparities, it shall be mandatory that the offender be referred to the Socio-Psychiatric Diagnostic Service (cf. Recommendation No. 8) for diagnosis and report. Such referral shall be ordered by the judge after a finding of guilt and before sentence. The period of time between referral and report should be limited. A copy of the report should be served on the defendant or his attorney. Upon examination of the report, the judge then may proceed with the criminal case or order proceedings for commitment under an act for the commitment of dangerous sex offenders. Such proceedings should have ample provision for proper representation, jury, notice, limits as to time and the opportunity for the defendant to present evidence. A committal under such proceedings shall be a bar to further criminal action, but in the event no committal results from the proceedings, the offender should be subject to further proceedings in the criminal case.

Non-Mandatory
Referrals
to the
SocioPsychiatric
Service

6. In all other criminal proceedings, including misdemeanants, except those provided for in No. 8, defendants may be referred to the Socio-Psychiatric Diagnostic Service for diagnosis and report.

In those instances in which the referral is made at the request of

the trial judge or state's attorney the proceedings shall be the same as where such referrals are mandatory as set forth in No. 5.

In those instances where the referral is made with the consent of the defendant and upon the recommendation of the trial judge or the State's Attorney, the referral may be made at any stage of the criminal proceedings, including stages prior to the closing of the evidence.

If the Service is unable to accept referrals in the non-mandatory class because existing case load will not permit satisfactory handling of additional cases, the usual criminal proceedings shall be resumed without prejudice to the existing powers of the trial judge in the conduct of the pre-sentence hearing.

Criminal Sexual Psychopath Law

- 7. The 1938 Criminal Sexual Psychopath Law and the 1947 Act, commonly known as the Connors Act, be amended in accordance with the following provisions:
 - a. Commitment under the 1938 Act shall be a defense to criminal proceedings on the criminal charge which formed the basis of the commitment.
 - b. The equivalent of parole should be available for persons committed under the 1938 and 1947 Acts. 1
 - c. Direct appellate review of orders of commitment should be provided in the 1938 Act, in the interests of uniform interpretation and application.
 - d. The words "Illinois Security Hospital," indicating a place of commitment, should be deleted from the 1938 Act.

The Illinois Security Hospital is an institution in the Department of Public Welfare. Since the Act places responsibility for the care and treatment of these offenders in the Department of Public Safety, the Department of Public Welfare cannot receive commitments under the Act.

e. Any communication made by any party proceeded against under the 1938 Act during the course of

The Committee had included in this recommendation "the equivalent of probation." The Commission ruled out "probation" because of the Criminal Sex Psychopath Laws which do not permit probation for persons to be confined for prolonged periods.

an interview with court-appointed psychiatrists should be deemed a privileged communication.

- f. The present provisions of the 1938 Act requiring a jury trial be modified to permit the party proceeded against to waive the jury. In such cases, a commission composed of psychiatrists should be appointed to recommend to the trial judge the manner of disposition of the petition.
- g. The phrase "criminal sexual psychopathic person" should be replaced with a more meaningful term, such as "sexually dangerous person."

The phrase "criminal sexual psychopathic person" confuses legal with psychiatric terminology and contains a wide range of meanings for the psychiatric specialists.

For legal purposes the proposed phrase, "sexually dangerous person," is more definitive.

- h. The term a "sexually dangerous person" should be defined in the law. A suggested definition is: one who has suffered a mental disorder or personality disturbance for a period of at least one year, together with a pattern of compulsive behavior, coupled with propensities toward acts of sexual aggression or acts of violent sex behavior, or molestation of children particularly where substantial age disparities exist.
- Persons to be confined under this Act should be committed to the Illinois Department of Public Safety rather than to a division thereof.

Presently, the law requires commitment to the Menard Psychiatric Division of the Illinois State Penitentiary. This amendment will permit more scientific classification and segregation of the offender in such facilities as will give society maximum protection and offer greatest hope of rehabilitation of the offender. The amendment is also consistent with the philosophy of the Illinois State Penitentiary Act.

j. All persons sentenced for sex offenses, as well as all persons confined under this Act and committed to the Illinois State Penitentiary, should be subject to release procedures applicable to other offenders, provided, that persons classified as sexually dangerous persons should not be unconditionally discharged until after a period of supervision in the free community.

Comment:

It is the intent of the above recommendations to clear up some of the confusion which exists, as the result of the wording of the Acts in question. It is recognized that the basic issues raised by measures like the sexual psychopath law are not resolved in these proposals. In effect, what the Committee suggests is that any person charged with a sex crime and confined under the terms of the 1938 Act shall be committed to the Department of Public Safety and that all other persons given to sexually deviant behavior and therefore in need of care and treatment, including those referred to under the 1947 Connor's Act should be confined in the Department of Public Welfare, under appropriate legal procedures.

ADMINISTRATION AND SERVICES

Sociopsychiatric Diagnostic Service 8. A Socio-Psychiatric Diagnostic Service for the state be established for the diagnosis and classification of persons (a) who are proceeded against under a statute for the commitment of dangerous sex offenders; (b) such other defendants as may be referred to the Service by the courts; and (c) such other persons as the Service deems advisable to accept for diagnosis and treatment such as those who are in danger of becoming delinquent or who are on probation or parole.

The Service should be located near Chicago because of the greater case load to be expected from Cook County, the availability of a greater body of trained personnel, and the proximity of several major centers of medicine and education. However, provision should be made, through the establishment of mobile teams or otherwise, to serve all the courts of the state upon demand.

The personnel standards and qualifications for all persons involved in diagnostic and research activities in this service shall be established by a committee or committees composed of recognized representatives of the appropriate disciplines, psychiatry, psychology, sociology and social service.

Attention is called to the fact that persons are to be found among the inmates of the state prison system whose primary problems are senility, syphilis, brain tumors, etc., rather than criminally motivated behavior, which suggests a wider use of such a diagnostic service before conviction.

This Service should also be charged with responsibility for a complete study of (a) the total problem of sex transgressions and criminality in general; (b) the psychodynamics of criminal behavior; (c) society's attitude and prejudices regarding criminality and their relation to causing crime; (d) the effectiveness of prevailing methods and new ways of handling offenders; (e) the effects of segregated incarceration in relation to causing deviant sexual behavior; (f) effective methods of education in the preventing of criminal tendencies; and (g) of children with reference to criminal behavior in later life.

Adequate funds should be provided to enable the Service to carry out its responsibilities for detention, diagnosis, treatment and classifi-cation effectively for the better protection of society through the rehabilitation of the individuals involved.

Rehabilitation Services

9. It is recommended that treatment facilities and opportunities in the Illinois State Penitentiary be improved substantially through development of coordinated vocational, educational, and counseling programs, so that the treatment recommendations of the Diagnostic Service with reference to sex offenders can be carried out. It is recognized that the achievement of this end necessitates the appropriation of sufficient funds to enlarge and maintain an adequate professional staff, such staff to be recruited in accordance with the standards described in No. 8 above.

of Service in Psychiatric Institute of Municipal Court of Chicago

Expansion 10. The appropriate officials of the city of Chicago be requested to provide additional detention facililities to the existing Psychiatric Institute of the Municipal Court, so that it may function more fully for defendants to criminal proceedings in the Municipal Court of Chicago, in a manner similar to that of the Socio-Psychiatric Diagnostic Service recommended in No. 8.

Use of Mental Health Code for Certain Socially Dangerous Persons

11. Those persons who by reason of mental disorder and/or the possession of tendencies toward socially dangerous conduct including sexually motivated dangerous conduct, and who are not eligible for handling under the criminal law, but fall in the categories in the Mental Health Code, be handled under the existing provisions of the Mental Health Code of the State of Illinois.

This is in recognition of those situations where there does not exist a criminal act, or where the evidence is insufficient to establish criminal action, but where there is evidence that the person may have socially dangerous propensities. Such a person may be mentally ill, mentally deficient or in need of mental treatment and should be proceeded against under the Mental Health Code.

Rehabilitation Services

12. The Department of Public Welfare, charged with responsibility for the care of those committed under the Mental Health Code, be provided with adequate funds, resources, and facilities to house, segregate and treat such individuals.

Psychiatric Division, Menard State Penitentiary

13. A special group be officially mandated by the Governor, to study the care and treatment of persons incarcerated in Menard State Prison Psychiatric Division, as sexually dangerous individuals.

> This special study group should be composed of technically competent persons who can make specific recommendations as to alterations in the plant, program and administrative arrangements for handling sex offenders, including the need for trained personnel, and opportunities for vocational and recreational rehabilitation.

> Any recommendations made by this group should be considered in relation to overall plans for the rehabilitation of the Menard Branch of the Illinois State Penitentiary.

> Immediate budgetary provisions should be made to finance the work of this study group as well as to implement its recommendations regarding Menard Branch.

> The Psychiatric Division houses persons who have become mentally ill following conviction as well as the dangerous sex offenders, who constitute one-third of the inmates in this Division. The segregation of sex offenders in this Division seriously interferes with the treatment of both the psychotics and the

sex offenders, rendering rehabilitation opportunities for both groups ineffective.

The extensive and detailed information gathered by the Illinois Sex Offenders Commission as to conditions in Illinois and throughout the nation should be made available to and utilized by the special study group.

PREVENTION PROGRAMS

- 14. Preventive measures take into consideration the social values and cultural factors which stimulate or eliminate sex offenses and crime in general. Psychopathological factors concerned with the personality pattern of an individual, and medical factors concerned with physiological and anatomical conditions, may also have implications in preventive activities. Educational and training techniques used in rearing children to live in our free American democratic society are also important in prevention. Media of mass com-. munication should be included in programs designed to help prevent sex offenses.
- 15. Means be created for the effective coordination of the many state agencies now commissioned to work

- with children, adolescents and adults. Increased support should be given to existing efforts to coordinate educational activities designed among other things to provide and organize educational efforts in regard to proper attitudes toward sex problems and in regard to the difficult problem of rearing children in freedom and with a sense of responsibility.
- 16. The State promote adequate training of teachers in state universities and teacher training institutions in mental hygiene and in the dynamics of personality structure. It should also take steps to improve the selection and recruitment of teachers.
- 17. Emphasis be given to the establishment of psychiatric facilities, both public and voluntary, so that the treatment for the sexually abnormal, for those who have not committed any criminal acts as well as for those on probation, in penal institutions, or on parole, would be more readily available. In addition, diagnostic centers which have been or may be established to work with sex offenders should carry on educational programs designed to help prevent sex offenses.

PRE-CONFERENCE

FACT-FINDING REPORTS

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AREA I: THE NATURE OF THE SEX OFFENDER

I. PROBLEMS OF DEFINITION

Most discussions of sex criminality begin by acknowledging the complexity of the problem. Deviant sex behavior probably is more varied in its expressions and more complex in its psychological implications than any other form of anti-social activity. It is not surprising, therefore, that formal descriptions of this area of behavior have become confused or semantically meaningless. This report is intended (1) to clarify some of these problems of definition and, (2) to describe deviant sex behavior in the light of scientific findings.

The term "sex offender" is applied in three principal, often overlapping, senses: (1) popular, (2) legal, (3) scientific. The popular usage is the least precise and connotes the presence of pathological or aggressive behavior. Public concern, as reflected in the establishment of this Commission, centers on the more extreme forms of sex criminality. Often no distinction is made in popular understanding between these serious acts and the mass of minor cases which are designated by law enforcement agencies as sex offenses. This leads to an exaggeration by the public of the extent and seriousness of the problem as compared to other forms of anti-social activity. Typical of the more general definitions which have been proposed are the following: Dr. Joseph Wortis, a psychiatrist, defines the sex offender as "an adult individual who engages in any sexual practice (except masturbation) that falls outside the socially acceptable scope of normalsexuality." E. R. Cass, Secretary of the American Prison Association, suggests that the sex offender "is defined as an individual who though mentally normal is poorly oriented or educated in sex matters, or one who is a sexual deviate to the extent that he indulges in sex practices in such a manner that he establishes himself as a public nuisance or danger to himself or others."

Legal usage of the term sex offender is fairly objective but give a limited understanding of the problem. We find the usage applied in other than legal contexts in the interest of clarity: Thus, Dr. Karl M. Bowman in his initial phase of the sex deviation research for the California Survey states, "For purposes of this survey, a sex offender is assumed to be a person who engages in one or more sex acts contrary to existing law or public policy, whose misconduct becomes known to a law enforcement authority."

In legal usage the focus is placed entirely upon describing the offense rather than the offender. However, many so-called sex offenses (e.g. selling immoral literature to a child) have little implication for sexual motivation but are simply included in the criminal codes or classifications under this category; on the other hand, some offenses such as firesetting and compulsive stealing are not classified as sex offenses although in many instances these have their basis in disturbances of the sexual sphere.

Another limitation of the legal description is the fact that legislation relating to sex offenders varies widely amongst the different states; in some areas, for example, misdemeanors such as vagrancy are assumed to carry the suspicion of sex immorality. The statutes on rape offenses especially are diverse and the penalties correspondingly are disparate. In Rhode Island for example, there is a five year maximum penalty for rape, while in Alabama, the same offense is punishable by death.

This lack of uniform codification points up some of the major current problems with reference to the legal definition of the sex offender - that is, the increasing inconsistency and lack of realism of sex legislation in the face of changing ideas and public attitudes towards sex. Especially important are Professor Alfred C. Kinsey's findings and his repeated affirmation that, "Current concepts of normality and abnormality in sex behavior represent primarily moral evaluations and have little if any biological justification." The 1949 report of the Group for the Advancement of Psychiatry stated this opinion even more specifically: "The preponderance of persons who carry out sex offenses punishable by current law are not behaving fundamentally different from that commonplace in the population; such persons are not necessarily to be regarded as suffering with psychiatric disorders or as socially dangerous."

Scientific definitions of the term sex offender focus upon the individual rather than upon the act. Professional workers are concerned not only with overt behavior but also with the motivation and background for that behavior. The scientific view is based on the assumption that deviant sex offenses often are symptoms of underlying emotional problems or disorders.

Existing sex legislation in some states includes scientific descriptions, e.g. the Criminal Sexual Psychopath law in Illinois. The difficulty with such legislation is that it is often poorly implemented, i.e. lay persons are called upon to make fine judgments about psychopathology, and professional persons are expected to enter opinions on legal questions or on social usage. Our goal is to develop objective descriptions and procedures which take account of these varying popular, legal, ethical and social usages. For legislative purposes, a clear distinction needs to be made between the legal and the professional evaluations of deviant sex behavior, similar to that which now holds for the evaluation of mental disturbances. A basic classification such as the following might be established:

statutory sex offender, pathological sex offender.

The first of these would include all persons who are caught breaking statutes or criminal codes relative to sex behavior. There should be no implication from this classification as to the abnormality of such behavior. A precedent for this usage may be found in the term "statutory rape" which is widely understood as conveying no onus of abnormality. The general classification of statutory sex

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offender would, then, be a recognition of primarily legal and social practice, focusing upon the particular act as it relates to social norms.

The second classification would be reserved as a technical, professional or medical designation. This term, or similar ones (such as deviant sex offender or psychiatrically deviant sex offender) would be applied to any case only after clinical examination by professional workers in psychiatry, psychology and social service. Use of this classification necessarily is tied in with legal and professional provisions for diagnostic studies and treatment of sex offenders. The probability is that with increasing knowledge and understanding of actual norms of sex behavior the presumption of pathology (and of criminality as well) in sex cases will decrease, - but where it is raised either popularly or by the courts the determination should be a technical one.

In short, we suggest that present practice in the diagnosis of psychosis and feeblemindedness be extended to the evaluation of serious sex offenders. A pertinent historical parallel may be noted in the era before medical judgments became the final criteria for determining mental pathology. Then, as now, problems were encountered in distinguishing between technical and popular understanding of unusual and retarded behavior. In many cases lay judgments may be correct; in others, especially the more subtle or borderline cases, they may be It is legally and popularly in serious error. accepted now that final determination must be made medically. No person can be classified or committed as psychotic or feebleminded except on the basis of psychiatric and psychological examination.

A similar practice is indicated in the diagnosis of the pathological sex offender. Responsibility would then be placed in professional rather than in legal hands to determine the extent and seriousness of personality deviation in each case. The problem of establishing uniform criteria in the evaluation of the pathological sex offender still remains to be solved. Psychiatric usage probably would become the determining basis. It might be anticipated that there would be continuing controversy just as there is over the classification of schizophrenia, but the over-all trend would be toward greater objectivity. Where court action is contemplated on the grounds of pathological behavior in whatever area, our safest course is to have this behavior evaluated by those who are most expert; the highly technical problems of human mentality are difficult enough for those trained in the psychological sciences, let alone for the average lay person.

The Group for the Advancement of Psychiatry already has suggested certain criteria which seem to differentiate the pathological sex offender:
(1) repetitive compulsive acts - having a "dynamic" pattern of similarity and carried out to the point of community intolerance; such acts manifest heedless disregard of consequences, and seek and attain ultimate expression even if momentary obstacles are encountered; (2) forced relations - the forcing

of sexual relations implies non-compliance on the part of the offended party; forced relations may be either heterosexual or homosexual; (3) age disparity (relations involving one adult) - this criterion rests upon a legal definition of minority and consent.

The logical approach to the problem of objective diagnosis of pathological behavior is through continued research at both individual and group levels. In the meantime, we should utilize to the fullest present techniques and understandings.

II. SCIENTIFIC FINDINGS

In this section of the Committee's report on the nature of the sex offender an attempt is made to summarize and integrate some of the more important basic findings, principles and opinions about deviant sex behavior. At the present stage of research any such selection necessarily is tentative and controversial, even within scientific groups; nevertheless, a formulation of ideas from related scientific disciplines furnishes a basis for initiating research and for considering changes in existing legislation.

The following outlines lean heavily on the work of specialists in the various fields. The first section, for example, is selected almost verbatim from the experimental work of Dr. Frank A. Beach. The sociological observations are mainly excerpts from Professor E. W. Burgess. No specific reference to the Kinsey findings is made here since these permeate all present thinking on this subject.

It is suggested that the main points in these outlines be viewed broadly; first, against the rationale of the present sex laws and second, in terms of their implications for enlightened changes in these laws.

- A. Biological findings from studies of mammalian behavior.
- Sexual behavior begins before puberty in many, if not all mammalian species.
- Autogenital stimulation is a common element in the basic sexual pattern of mammals.
- Sexual interaction between like-sex pairs is characteristic of all primates and of many mammalian species.
- In all mammals, sexual behavior may be modified (inhibited or enhanced) by individual experience.
- 5. Human sexuality reflects two important and related phylogenetic trends:
 - (a) Increased freedom from specific physiological controls (erotic responsiveness relatively independent of sexual physiology.)
 - (b) Increase in modifiability of sexual arousal and expression.
- B. Basic findings anthropology.
- 1. Patterns of sexual behavior and definitions of

sexually deviant behavior vary markedly from one cultural group to another.

 All known cultures, even the more primitive, prohibit or punish some kinds of sex offenses, but the particular offenses punished vary from group to group.

3. Scientific surveys covering varied cultural groups indicate that wide variations in type of sex behavior are not unique to our society but are observed also in primitive groups.

 A greater variety of socially legitimate sexual outlets in other societies appears correlated with a lower incidence of sex crimes.

5. Surveys of varied cultural groups indicate that sexual activity in human beings generally begins long before sexual maturity.

6. Behavior regarded as sexually deviant in one group may be acceptable or approved within another.

Sex deviation cannot be evaluated as an individual matter but must be viewed in relation to the whole social structure.

C. Some basic psychological concepts.

 Sexual need in man is a primary need and a basic motivating factor in his behavior.

 Variations or deviations in sex behavior are learned processes subject to all of the factors which affect learning, such as success or failure, punishment or reward.

3. The strength of manifestation of sex needs varies in the same manner as other biological characteristics such as height-a small percentage of the population being found at either extreme and the bulk of the population showing a bell-shaped statistical distribution between these extremes. This principle applies also to types of sexual behavior; for example, frequency of intercourse, degree of homosexuality, etc.

4. There is a continum (rather than a sharp difference) from normal to abnormal sexual behavior. Deviant sex behavior usually is an exaggeration, distortion or impoverishment of normal sex behavior. An example of this is voyerism, which, in some degree, is a normal phenomenon but may become greatly exagger-

ated in the form of the Peeping Tom.

5. Most so-called perversions are present in the sexual life-history of normal adult individuals, either as a developmental phase which has been outgrown, or as an occasional part of sex fore-play. An example is the oral erotic behavior observed in infants and often in normal adults. These partial, substitutive or anticipatory kinds of sex behavior become, in the sex deviant, principal modes of satisfaction.

6. The sexual pattern of any particular individual represents the interaction of many factors in his life history: (a) constitutional and hereditary factors (e.g. strength of the sex drive); (b) the family pattern (parental identification and influences); (c) the social context (sex attitudes and mores of the particular cultural group); (d) developmental history and environmental factors (specific experiences or kinds of stimula-

7. Human beings tend to preserve maximum ad-

justment or integration; the sex deviant utilizes disruptive or inappropriate behavior to achieve equilibrium: these inappropriate acts cannot be dealt with effectively in isolation but only as part of the total behavioral problem.

D. Some sociological observations.

Sex is conceived, sociologically, as human conduct, defined and controlled by society. In contrast to the instinctual sex life of animals, man's attitudes and values (reflecting his intimate group and the surrounding social situation) strongly modify his sex behavior. Sex conduct is regulated by folkways and mores which vary with the subculture so that a variety of standards simultaneously exist.

2. To understand sex conduct we must observe the individual's sex role in relation to the other roles which he maintains. The ideal masculine role may vary from one region, subculture, or social class to another. A heterogeneous society introduces much conflict in the individual's conception of his sex role in relation to his marital,

occupational or other roles.

3. With reference to the inversion of sex roles such as in homosexuality, it is suggested that there is no stereotyped form. Social factors may determine this role to a large extent as in the case of the boy treated as a girl. Homosexual behavior patterns may be precipitated through situational factors. Individuals may assume some aspects of an opposite sex role without identifying themselves as homosexuals.

4. Sociologists study the effect on sex behavior of changes in social values. The controls of sex conduct may vary from urban to rural groups. Changes in social values are effected through channels of mass communication which reflect a variety of standards with reference to sex conduct. The influence of these varied standards upon a culture which traditionally places taboos on all sex conduct outside the marital situation, has precipitated many of the conflicts and symptoms of sex deviation.

5. With reference to extra-marital sex behavior a great variety of accepted codes are observed, -from complete proscription in some groups such as ministers, to fairly general acceptance in other groups such as underworld society.

6. The stability of sexual patterns is related to the stability of the social structure. For example, the sex conduct of soldiers exposed to disorganized social conditions over seas varied widely from their sex conduct at home. Modern, industrialized, mobile, impersonal living has also affected traditional standards of sex behavior.

E. Psychiatric findings on sex offenders.

1. Aberrant sex behavior, from a psychiatric point of view, often is regarded as a symptom of an underlying disorder. Symptoms of this type are used by the individual as defenses against the anxiety involved in inner conflicts.

 Sex offenders may be suffering from some type of mental disorder such as schizophrenia, organic brain disease, mental deficiency or epilepsy;

- or they may present less obvious conditions variously designated as psychopathic personality, sexual psychopathy and neurotic character disorder.
- 3. Constitutional factors are considered by some to be an important cause of aberrant sex behavior, but the evidence for this is inclusive. In general, morphological and anatomical pathology seems to play little, if any, part in deviant sex behavior. Until further studies are made upon the relation between hormones and similar substances to sexual behavior, no definitive statement should be made. Similarly, there is no basis for assuming that castration or other physical procedures are cures.
- 4. It is suggested that a distinction be made between sexual deviates whose conduct in the community offends morals (homosexuals, exhibitionists), and dangerous, aggressive offenders whose behavior is a community threat (aggressive rapist, etc.). (New Jersey Commission on the Habitual Sex Offender).
- 5. A large number of adults mutually and privately carry out illegal sexual practices with other persons of adult status; this should not be considered as presenting a problem of important legislative concern. (Group for the Advancement of Psychiatry).
- 6. As a rule, sex offenders do not progress from

- minor to more serious crimes. For the most part, they retain the same general behavior patterns even though these may cover a variety of forms of sex outlet.
- Usually it is not possible to predict, with any certainty, the danger of commission of a serious crime by a known sex deviate who has not previously committed crime.
- 8. The case history of the aggressive sex offender is characterized by severe emotional deprivation and traumatic experiences during childhood. Particularly important are such factors as the absence of male identification, confusion in the establishment of the sex role, and the development of hostility and resentment towards parental and authority figures.
- 9. Not more than about 5% of convicted sex offenders are dangerous. The petty types probably are neither deterred by short jail terms nor cured by longer ones in the absence of psychotherapy. (Paul W. Tappan).
- 10. In general, sex offenders are not recidivists, at least to the extent of repeated arrests. The majority of sex cases are first offenders although some of these previously may have committed other types of offenses. The highest rate of recidivism is noted for the offense of exhibitionism; the lowest for that of rape.

AREA II: TREATMENT OF THE SEX OFFENDER

This area work group submits the following results of its fact-finding research:

- Consideration of the treatment of the sex offender necessitates definition of the subject.
- "Sex offender" is a lay and legal term describing an act or alleged act.
- 3. The term "sex offender" to the socio-psychiatric professions is meaningless since these professions take into account the total individual; the physical and mental condition of that individual, and his motivation or intent in the commission of the act, or alleged act, which brings him before the authorities.
- Persons accused of sex offenses are found in all diagnostic categories of feeble-minded, psychotic, neurotic and abnormal as well as normal personalities.
- Therefore, each of the various diagnostic categories must be considered separately with respect to treatment.
- 6. The community, the police and the courts treat the sexual offender in variable ways, with evidence to suggest that to them he represents a "type" of person and that "treatment" for the most part is thought of as punishing the individual.
- Socio-psychiatric professions treat the so-called sex offender as:
 - a. A mental defective who, when he has sexually abnormal tendencies which are being acted out, is to be confined to an institution for the feebleminded. The object here is to provide habit training designed to prepare him for better social adjustment in the free community.
 - b. A psychotic individual who is confined to a mental hospital with the object of effecting a recovery from the psychosis, or who is confined under psychiatric and custodial supervision when his condition is chronic, requiring continued institutionalization.
 - c. A neurotic person who, when favorable criteria exists and he is not dangerous to the community, is treated in a psychiatrist's office, either privately or under clinic auspices.
 - d. One of the other various classifications of abnormal personalities, who when favorable criteria exist, is treated by psychotherapy in a clinic or private office or who is given counsel-
 - e. An apparently normal person, responsible for his acts, who is referred back to courts for appropriate judicial action.
 - f. In the various so-called borderline classifications unfavorable for treatment, the professions usually recommend some form of court supervision or probation or confinement to a mental hospital under the existing legislative clause, "in need of mental treatment" or confinement under correctional institution status. This group includes the person of borderline intelligence not commitable to an institution or the neurotic person not amenable to office treatment or one of the other classifications of abnormal personality also not commitable to an institution and not a favorable prognostic case for treatment.

From the point of view of treatment, certain attitudes and tendencies and certain existing deficiencies are to be deplored. These include:

- 1. The attitude of the public and the courts that there is a typical sexual offender who can be treated as such.
- The attitude that the sex offender stands alone
 as in need of such services and is radically
 different from other neurotic, psychotic, mental
 defective or abnormal personalities in need of
 treatment.
- 3. The attitude that our high incidence of sexual offenders can be reduced appreciably by some specific prevention measures which are different from the measures advised in preventing psychoses, neuroses and personality disorders.
- 4. The belief that the incidence of sex offenses can be reduced appreciably by legislation which, at the same time, cannot reduce other offenses by the feeble-minded, the psychotic, the abnormal personalities, the arteriosclerotic, the senile deteriorations and other socio-psychiatric ills.
- 5. The tendency to label sex offenders and many others who commit offenses against society, sick individuals in a psychiatric sense, thus seeming to establish a doctrine that no individual who commits a social offense is responsible.
- The tendency to call upon the socio-psychiatric professions to declare a person criminal or noncriminal, thus, in effect, asking the professions to usurp the rights and duties of the courts.
- The lack of adequate socio-psychiatric facilities at pre-trial level.
- 8. The lack of adequate treatment facilities both in the community and in our institutions.
- The lack of adequate follow-up procedures and studies.
- The lack of proper coordination between agencies and the individuals needing treatment.

From the facts acquired from our study, there are the following implications or suggestions:

- All bona fide sex offenders should have sociopsychiatric examinations at pre-trial or presentence levels.
- 2. Adequate facilities should be made available for the implementation of the recommendations of these professional teams.
- Intensive consideration should be given to including others besides the sex offender in any legislation which would establish points 1 and 2 above.

Since the problem of diagnosis often is timeconsuming and difficult, and since the prognosis for good results is even more difficult, and, finally, since the responsibility for confining to an institution for treatment or releasing to the community must advisedly be based upon professional opinion, the establishment of a medical or psychiatric institution to which bona fide sex offenders could be committed, is recommended. Commitments should be for treatment purposes and include full power to (a) detain indefinitely, (b) treat, (c) discharge conditionally or absolutely or (d) return to the courts for judicial disposition.

AREA III: "WHAT IS BEING DONE IN ILLINOIS"

I. INTRODUCTION

The Committee for Area III investigated the question of what is being done in Illinois to deal with the problem of the sex offender. In carrying out this assignment, the Committee divided its membership into four subcommittees, each of which was assigned a particular phase of the problem to investigate as follows:

- Subcommittee on Sex Offender Statistics: the collection of relevant statistics relating to a description of the commitment rates and the characteristics of different types of sex offenders in the penal population.
- Subcommittee on Legal Framework: the review and evaluation of law relating to the disposition and treatment of sex offenders in Illinois.
- Subcommittee on Enforcement Practices and Correctional Treatment: the survey and evaluation of existing practices and procedures for the apprehension, conviction, and treatment of sex offenders in Illinois.
- Subcommittee on Release Procedures and Community Adjustment: the study of the nature and effectiveness of various procedures for releasing sex offenders from correctional custody.

The reports of these subcommittees include a statement of the major problems in each of these areas, a review and evaluation of existing practices, and a number of specific recommendations.

The Subcommittee on Sex Offender Statistics presented a detailed set of statistical tables dealing with the number and characteristics of sex offenders committed to the Illinois State Penitentiary System over a five year period.

The Subcommittee on Leg Framework cited various deficiencies in the Criminal Sexual Psychopath Laws of Illinois and made a series of specific proposals designed to clarify and render more effective the application of these laws.

The Subcommittee on Law Enforcement Practices and Correctional Treatment highlighted the critical need for more extensive professional diagnosis in connection with the court disposition of sex cases and pointed to the need for the development of more adequate treatment programs. Recommendations through which more effective handling of sex offender cases may be realized has been presented.

The Subcommittee on Release Procedures and Community Adjustment stressed the desirability of a more extensive use of parole as a release procedure for sex offenders. The importance of a period of supervision in the free community for all sex offenders and the advisability of extending parole coverage to include the supervision of criminal sexual psychopaths has been discussed.

II. REPORT OF THE SUBCOMMITTEE ON SEX OFFENDER STATISTICS

In lieu of a formal report the subcommittee on

sex offender statistics submitted a detailed set of statistical studies of the number and type of sex offenders admitted to the Illinois Penitentiary System from July 1, 1947 to July 1, 1952. The detailed statistical tables have been placed on file with the Sex Offenders Commission for reference purposes. There follows a summary statement of some of the major findings secured from these tables.

1. Total Sex Offender Admissions

A total of 727 sex offenders were admitted to the Illinois Penitentiary System by court order from July 1, 1947 to July 1, 1952. Over half of these offenders were admitted for crimes involving rape; 26% for forcible rape, 18% for statutory rape, and 11% for assault to rape. The remaining 45% were admitted for other types of sex crimes; 30% for indecent liberties, 9% for crime vs. nature, and 6% for incest.

Sex offenses are not exclusively the crimes of single men. One-third of the 727 cases were married at the time of admission, 38% were single, and the remaining 29% either were divorced, separated, widowed, or party to common-law relationships. A disproportionate number of those committing aggressive sex acts were non-married. Only 26% of those convicted for the crimes of forcible rape, assault to rape, and crime vs. nature were married as compared with 38% of those convicted of statutory rape, incest, and indecent liberties. As would be expected, the highest proportion of married persons were found among those convicted of incest (67%).

In investigating the age of sex offenders on admission to the penitentiary, it was found that 32% were under 25 years of age, 52% were in the age group 25-44, and 16% were 45 years old or over. When the type of sex offense is related to age, clear-cut differences may be observed. Among those convicted for all types of offenses involving rape, 48% were under the age of 25 and 5% were 45 years of age or over. For all other types of sex crimes, however, only 13% were under 25 years of age, and 30% were 45 years old or over. It is accepted that persons who commit rape are not disposed to engage in other types of sex crimes. From the age figures, it would appear that any prolonged period of imprisonment for persons convicted of crimes involving rape effectively reduces the chances of a subsequent sex offense.

Whites were committed proportionately twice as often as Negroes for sex crimes, the figures being 67% and 33%, respectively. Since Negroes constitute only 10% of the general population, they are overrepresented in the prison commitments. However, the figure 33% is approximately the same as the percentage of Negroes among prison commitments for all types of crimes. Consequently, this figure should be interpreted as reflecting the greater probability of Negroes being exposed to criminal conditioning, arrest, and convictions, rather than a stronger disposition for the commission of sex

crimes. The figures disclose also that Negroes tend to be committed more often for crimes of rape than Whites. Among the Negroes, 75% were convicted of a crime involving rape, whereas only 46% of the Whites were convicted of rape offenses.

In examining the intelligence scores of the 727 sex offenders, it was discovered that 41% were classified in the mental defective, borderline, or dull categories, 38% in the low average, average, or high average categories, and 21% were of superior or very superior intelligence. These results suggest a tendency for sex offenders as a group to be concentrated at lower intelligence levels than the general prison or non-prison populations. Certainly this appears true of those convicted of incest, since 52% of them were classified in the low intelligence categories. Such comparisons are tentative, however, in the absence of figures corrected for socioeconomic level.

The courts make a distinction in their sentencing practices between persons found guilty of forcible rape and statutory rape, though such a distinction is not clearly made in the statutes from the standpoint of possible penalty. It was found that 48% of the persons convicted of forcible rape received a definite sentence of 5 years or less; whereas, 84% of those convicted of statutory rape received sentences of 5 years or less. For the purpose of this study, statutory rape was defined as an offense in which the girl was under sixteen and assented to the relationship, such that no force or intimidation was necessary. Wherever force or duress was involved, the offense was classified as forcible rape. For all types of sex offenses, requiring either a determinate or indeterminate sentence, a maximum sentence of 5 years or less was received in 56% of the cases. With time off for good behavior in prison, the longest time that any of these cases could serve would be 3 years and 9 months. The Parole Board regards a minimum period of 3 years of parole supervision as necessary to assure protection of the community through the secure adjustment of the criminal offender. Thus, in over half of the sex offender cases, a minimum three year period of parole supervision would be impossible, even though parole were granted at the earliest possible moment allowed by law (i.e., one year).

Examination of the previous criminal records of the 727 sex offenders revealed that 23% had a previous record of some kind as a sex offender: 9% were convicted previously for a major sex crime: 9% were convicted previously for a minor sex crime; and 5% had been arrested previously or placed under suspended sentence for a sex crime. Among the remaining 77% of the cases, 40% had no previous criminal record, and 37% had a previous commitment to a penitentiary, jail, or probation for a crime other than a sex offense. Among the different types of sex crimes represented in the sample, only those convicted of indecent liberties showed a disproportionately high rate of previous arrests and convictions for sex offenses. Among these cases, 35% had a previous official record of arrest or conviction for a sex crime.

These statistics on the characteristics of sex offenders should not be taken as representative of all arrested offenders. They apply only to those offenders who are actually committed to prison, and do not include those cases otherwise disposed of by suspended sentence, probation, jail commitment, etc. Consequently, this group of offenders must be regarded as having passed through a process of legal screening by the agencies of the criminal law before their commitment.

2. Criminal Sexual Psychopaths

The 1938 Law providing for the civil commitment of criminal sexual psychopaths to the Psychiatric Division of the Illinois State Penitentiary System has been applied sparingly. Only 62 cases were committed under this law between July 1, 1938 and July 1, 1952. A total of 25 cases were committed from Cook County and 37 from other Illinois counties. No commitments were made from Cook County until 1946. Since the beginning of the year 1946, 23 cases have been committed from other Illinois counties.

In examining the type of offenses with which these offenders were charged, it is noted that exactly half of the cases were charged with the crimes of indecent liberties or contributing to the delinquency of a minor -- the figures being 23 cases and 8 cases respectively. A total of 10 cases were charged with crime vs. nature; 8 for indecent liberties; 5 for rape; 3 for assault to rape; 3 for incest, and 1 each for assault to kill and arson.

A total of 31 of the 62 criminal sexual psychopaths committed under the 1938 Law had been discharged from confinement in the Psychiatric Division by July 1, 1952. Four of these 31 offenders died in confinement. Of the remaining 27 men, one was transferred to the Illinois Security Hospital of the Department of Public Welfare, four were placed on probation and four recommitted to prison as a result of court hearings in connection with their original crimes. A total of 18 cases were released outright to the community. The records reveal that two of the offenders living again in the free community, committed subsequent sex offenses.

Investigation of the records of the Psychiatric Division has shown that 103 sex offenders have been classified as criminal sexual psychopaths and transferred to the Psychiatric Division under the authority of the 1947 Amendment to the Penitentiary provisions of the Illinois Statutes from July 1,1947 to July 1, 1952. Of these cases, 70% were committed to the penitentiary from Cook County and 30% from other Illinois counties. The difference in these two percentages provides further evidence of the somewhat greater reluctance to make use of civil commitments under the 1938 Law from Cook County.

The following distribution of the 103 cases by type of sex crime was obtained:

Offense	Number
Indecent Liberties	43
\Rape	22
Crime vs. Nature	20
Institutional Homosexuality	10
Assault to Rape	6
Incest	2
TOTAL	103

The category "Institutional Homosexuality" refers to cases classified as criminal sexual psychopaths on the basis of behavior observed during their prison confinement. A total of 61 of the 103 cases represent persons classified as criminal sexual psychopaths on admission to the penitentiary subsequent to July 1, 1947. The remainder of the cases were committed prior to that date.

All of the 103 cases were classified with regard to the length of the maximum sentence meted out in each case by the court. It was found that 26% of the cases had a definite sentence or a maximum indeterminate sentence of 5 years or less. This figure may be compared with the 56% of the 727 sex offenders committed from July 1, 1947 to July 1, 1952 who received maximum sentences of 5 years or less. The comparison suggests that the courts tended to select out the more serious cases for proportionately longer sentences.

Out of the 103 cases, 39 had been discharged from the Psychiatric Division as of July 1, 1952. Four of these cases were transferred back to other branches of the penitentiary system. One case was transferred to the Tubercular Hospital at the Pontiac Branch, and one man died in confinement. In 33 cases, the offenders were discharged from the Psychiatric Division by virtue of the expiration of their prison sentences. Of these 33 cases, 13 were committed by the court to the care of the Department of Public Welfare for further treatment. However, the remaining 20 cases were released to the free community, 15 because of a refusal of the local court to hear the cases in view of their decision that the 1947 Act was unconstitutional.

Several comparisons also were made between the characteristics of sexual psychopaths and those found for all sex offenders committed to the penitentiary from July 1, 1947 to July 1, 1952. It was found that only 18% of the sex psychopaths were married as compared to 33% for all sex offenders. No significant differences were found between the two groups with reference to intelligence scores. However, the sex psychopaths represent a somewhat older group. Only 18% of the sex psychopaths were under 25 years of age on admission, 56% were in the age group 25-44, and 26% were 45 or over. These may be compared with the comparable percentages for all sex offenders 32%, 52%, and 16%, respectively. There also was a difference in two groups with respect to Whereas 21% of the sex psychopaths were Negro, 33% of all sex offenders were Negro.

3. Follow-Up Results for Sex Offenders

The subcommittee did not collect detailed statistics on the adjustment of sex offenders following

their release from confinement. However, some statistics bearing on this question were secured from the Office of the Sociologist-Actuary at the Stateville Branch of the Illinois State Penitentiary System. The statistics refer to a study of all indeterminate commitments from Cook County to the penitentiary during the period July 1, 1943 to July 1, 1947. From this group of cases, a total of 179 cases of sex offenders were obtained, all of whom had been released either on parole or unconditional discharge due to the expiration of sentence by July 1, 1950. The subsequent criminal records of these men were checked through the State Bureau of Identification in Springfield to determine their adjustment as of July 1, 1951. Thus, all of the cases had been in the free community for a year or more during which new offenses might have been commit-

It was found that 31 (17%) of the 179 sex offenders had been arrested and fingerprinted during the follow-up period. Fifteen of these 31 men were arrested and disposed of without conviction for any offense. Ten were involved in felonies or misdemeanors of a non-sexual nature. Only six or 3% of the 179 sex offenders committed subsequent offenses of a sexual character during the follow-up period.

These figures seem to indicate that sexual recidivism occurs in only a small proportion of the cases released. The recidivism rate would have been higher if the follow-up period could have been extended. However, other Illinois studies of paroled and discharged offenders have revealed that approximately half of the discharged and paroled offenders who commit new offenses will do so within a year after release from confinement; thus it is likely that continued follow-up of the released sex offenders would not reveal a subsequent conviction rate for sex crimes greatly in excess of 6%.

III REPORT OF THE SUB-COMMITTEE ON LEGAL FRAMEWORK

This sub-committee reviewed Illinois legislation pertaining to the commitment and release of criminal sexual psychopaths, in order to assemble ambiguities in the several acts, or evident errors in the interpretation thereof, which have tended to frustrate their effective use. This sub-committee also has considered existing legislation in respect to constitutionality and has concluded that, in the absence of arguments for change by other participants in the conference, the fact that the statutes now enacted have been held to be constitutional, is of paramount significance. No argument resulting only from a study of legal framework is strong enough to lead to a recommendation for substitute laws, which then undoubtedly would be utilized sparingly until such time as the constitutionality of such laws had been tested by our highest court. In the light of this examination of the laws, the following criticisms and recommendations for action are offered.

1. Review of the 1938 Law

The general objectives of the sub-committee in

reporting on the 1938 law are two-fold:(1) to clarify joints which appear to have been confusing to those interpreting the law, and (2) to make more obvious the civil nature of the proceedings under this Act. By these means it is hoped that encouragement will be given to the most effective use of the act as a permissive substitute for punitive retribution. Specific recommendations for clarification of the terms of the act are given below:

a. The law should be made clear as to the point at which a petition may be filed alleging criminal sexual psychopathy. Although there is reason to believe the present law is adequate in this respect, it has been apparent from statements made by prosecutors and judges that there is no agreement on this point. For the sake of unanimity, therefore, it is recommended that whatever the provisions of the Act, or however else legislation may be worded, the time for petitioning should be made specific. In this Act, presumably, this could be accomplished by including a statement that the petition may be filed either after indictment or information. Present language refers only to an individual being "charged."

b. A clear statement should be made as to what crimes need be charged before a petition is proper. While this could be limited in a number of ways (say, to crimes involving violence or age disparity greater than "x" years, etc.), the present act, in order to be more clear than as presently interpreted by the Attorney General, would read "any criminal offense, whether misdemeanor or felony" and thus would provide for discovering criminal sexual psychopathy behind any sex-motivated crime no matter what the magnitude or nature of the crime itself.

- Provision should be made for psychiatric examination in every case prior to trial on the subject of mental disorder. Part of the difficulty arising from the confusion as to whether this proceeding is a civil or criminal one is that persons alleged to be criminal sexual psychopaths are reluctant to divulge information to psychiatrists since the report of the psychiatrist is introduced in evidence and such evidence thereby would become available as a basis for subsequent investigation and criminal proceedings. The possibility of providing that commitment under this act would be a defense to subsequent prosecution under the criminal code was discussed and set aside on the basis that it would tend to emphasize the criminal nature of incarceration under the Act and encourage devious machinations on the part of criminals not properly classifiable as sex psychopaths to make use of the law for their own ends. The possibility also was discussed of allowing incarceration under this act to be counted in the running of the statute of limitations, but no decision was reached on this point.
- d. The place of confinement should be made definite and should be of such a character as not to impress the statute with a quality of punishment rather than treatment. The present Act states that persons shall be committed to the Department of Public Safety to be confined in the Psychiatric Di-

vision at Menard or the Illinois Security Hospital. Inasmuch as the Security Hospital is not under the jurisdiction of the Department of Public Safety but rather of the Department of Public Welfare, this provision has produced confusion in the commitment and confinement of sex psychopaths. While the suggestion as to place of treatment should come presumably from the Area studying that problem. yet there should be pointed out here a necessity for amending the present law in this respect if it is not in whole supplanted by some other law in the next session of the legislature. If the alternative of confinement in either one of the institutions is to be retained, commitment to the Department of Public Welfare should be provided for in relation to the Illinois Security Hospital.

e. There should be provision made for parole of the inmates. In the first place, there has been reluctance on the part of local officials to use this act because of the inherent possibility of lifetime incarceration. While the committee does not think that providing for a maximum sentence is desirable in a civil proceeding, there is reason to believe that the addition of a parole or conditional discharge procedure would alleviate the fear of indefinite terms of confinement. In the second place, the necessity on the part of the administration and later the courts to decide that there has been a "full recovery" is almost impossible of performance so long as the only environment in which the individual may be observed is the institutional environment. This terminology would be successful only if parole were provided for, so that the adjustment or recovery of the individual in the institution could be followed with close supervision in the community until such time as a medical diagnosis of full recovery may be made with conviction. Finally, it is assumed that the introduction of parole would eliminate the provision for returning the individual for prosecution of his crime. Providing for automatic return of one "fully recovered" for trial for the crime charged is an added confusion as to the nature of the proceeding in the first place; and in the second place, if the crime was committed because of the individual's compulsive behavior, once cured of this behavior it does not seem logical that he then should be punished for having been subject to mental disorder.

f. The time element involved in petitioning for incarceration or release should be geared to down-state as well as to Chicago. Under the present law, for example, the provision that a hearing shall be held on a petition for release within 10 days after filing is impossible of performance in most cases down-state due to the unavailability of judges, jurors and psychiatrists. The 10 day requirement should be amended to a general requirement of prompt hearing and disposition.

2. Review of the 1947 Amendment

The sole recommendation of this sub-committee concerning the 1947 amendment to the penitentiary Act is that the Department of Public Safety be given the authority to bring into court before discharge any inmate diagnosed as a criminal sexual psychopath. As the act presently stands, persons com-

mitted to the penitentiary are diagnosed and may be segregated as criminal sexual psychopaths, but there is no provision for bringing inmates to trial as sex psychopaths, except those guilty of rape, incest, crime against nature, or taking indecent liberties with a child. This recommended procedure is designed to avoid those situations in which a person diagnosed by the Department as a sex psychopath must be released at the end of his sentence even though he needs additional treatment and detention.

This amendment would confer jurisdiction upon the courts to conduct hearings in these cases, as well as authority upon the Department to bring the petition. This procedure should not be mandatory in the class of cases under discussion, since this would burden unduly the Department and the courts, but it should be discretionary with the Department in those cases where the Department finds an individual so classified has not recovered and is in need of further treatment. The same type of discretion is given the Department as to proceedings under the Mental Health Act in connection with inmates of the Psychiatric Division.

IV: REPORT OF THE SUBCOMMITTEE ON ENFORCEMENT PRACTICES AND CORRECTIONAL TREATMENT

A survey of existing practices in the treatment of sex offenders reveals a tendency to treat the sex offender both as a criminal and as a mentally ill person. Even from a theoretical standpoint, there is lack of agreement as to which course should be pursued. Part of the confusion seems due to the heterogeneous character of the sex offender group. Certain types of sex offenders actually represent primarily social and moral problems rather than In such cases, there is a personality problems. tendency to regard criminal action alone as sufficient to produce conformity with conventional values as expressed in statute law. However, where it is recognized that fundamental disturbances of personality are related to the occurence of the sex offense, there appears to be a growing disposition to treat the offender as a mentally sick person and to circumvent criminal action. The difficulty arises in establishing adequate administrative machinery to make the necessary distinctions between different types of sex offenders and to provide for proper treatment. There is an immediate need for making accurate diagnoses of sex offenders available to the criminal court. There is also a critical need for adequate and appropriate treatment possibilities for different types of sex offenders, representing both correctional and mental health services, which are equally accessible to the criminal court in the disposition of sex cases.

The entire apparatus of criminal action from law enforcement to treatment properly may be regarded as a screening enterprise, in which the objective is to sort out in the various stages of arrest, charge, indictment, trial, pre-sentence investigation, sentencing, and institutional classification those sex offenders who represent a serious, continuing threat to the safety of the community. The measure of the effectiveness of the legal and correctional organ-

ization in the prevention of sex crimes is to be found in the degree to which minor and accidental offenders are screened out and it becomes possible to concentrate the full potential of our treatment resources on those offenders most urgently in need of help in the interest of community security.

1. Police Action Against Sex Crimes

Police activity in connection with sex crimes represents only a small portion of the activity directed toward all types of crime. As an indication of this, the number of all types of offenses known to the police in Chicago in 1951 is reported as 62,257. The number of sex offenses known to the police in 1951 was 1,895. Thus sex offenses constituted only 3 percent of all offenses known to the Chicago police in 1951. Of the 1,895 sex offenses, 343 (18.1%) were forcible rape, 206 (10.9%) statutory rape, 148 (7.8%) attempt rape, and 1,198 (63.2%) sex offenses other than rape. The incidence of sex crimes appears to be even lower for cities in Illinois other than Chicago. The Uniform Crime Reports of the FBI for 1951 show a total of 853 rape offenses known to the police in 137 Illinois cities. Since 697 or 82% of these offenses were reported from Chicago, and Chicago had only 62% of the total population of these 137 cities in 1950, it is clear that, in terms of police reports, sex offenses of this kind are predominantly an urban phenomena.

In spite of being only a small portion of the total crime problem, sex offenses are cleared by arrest much more frequently than other types of crime. In 1951, the Chicago police reported that 1,537 or 81% of the sex offenses known to police were cleared by arrest. This is much higher than the reported clearup by arrest of 27% of all reported crimes. The highest rate of clear-up of sex offenses by arrest was 94% for statutory rape, and the lowest was 61% for forcible rape. This difference is a reflection of the ease of identification in cases of statutory rape. Though statistics currently are not available for down-state areas in Illinois, it is anticipated that the greater likelihood of personal identification of the offender in smaller communities would result in an equally efficient enforcement picture for sex offenses.

A considerable portion of the efficiency demonstrated in clearing up sex offenses in Chicago may be attributed to the organization of a central sex bureau through which all reported sex offenses and all apprehended sex offenders are processed. The maintenance of complete centralized records on sex crimes aids considerably in the identification of possible suspects through the device of "modus operandi files" and catalogued physical descriptions of previous offenders. In 1951, the Sex Bureau of the Chicago Police Department processed 1,547 prisoners of whom 327, or 21 percent, had previous records as sex offenders. Prosecution of these cases is aided by having an assistant from the State's Attorney's

¹ Chicago Police Department, Annual Report, 1951 and monthly reports of Records and Communication Section.

office work directly in cooperation with the Sex Bureau personnel. A similar centralization of files on sex criminals on a state-wide basis would aid materially all communities in the State in the identification and apprehension of sex offenders. Such a central bureau could be organized easily within the existing Illinois Bureau of Criminal Identification and Investigation in Springfield to service the entire State. The Sex Bureau not only would aid enforcement and prosecution, but also would be capable of providing routine statistical information on the extent of sex crimes. This would serve to place the entire problem of sex offenses in proper perspective and provide essential information for the understanding and investigation of sex offender problems. This statistical phase of the bureau work could be carried out in conjunction with the punch card facilities now organized in the Statistical Office of the Department of Public Safety at Springfield.

2. Juvenile Sex Offenders

The problem of the juvenile sex offender is not regarded by criminal authorities as posing such difficult problems as arise in dealing with the adult offender. Many of the reported sex deviations and offenses among juveniles are observed to be reflections of sexual behavior patterns which are prevalent and accepted among juveniles in various socio-economic groups in society. Juvenile authorities express the conviction that the norms and controls governing the sex behavior of young people are changing in the direction of increasing permissiveness of sexual contacts. The reported offenses thus represent only a small proportion of the sexual contacts which are in violation of existing statutes pertaining to statutory rape, homosexuality, etc. Those cases which find their way to the juvenile court and to treatment centers as sex problems appear to reflect the accidents of reporting rather than the deviation of the behavior. There is a growing tendency to direct serious attention primarily to those cases in which the sex behavior shows marked deviation or a continuing pattern of aggressive assault together with serious emotional and personality disturbance.

Although progress has been made, one of the continuing problems in dealing with juvenile sex offenders concerns the establishment of adequate staff and facilities in order that competent professional diagnoses may select out the critical cases for more intensive treatment. The Juvenile Court of Cook County has an attached diagnostic staff of one psychiatrist, two psychologists, and one psychiatric social worker. The psychiatric resources of the Institute of Juvenile Research of the State Department of Public Welfare are available also for diagnostic referrals by the court in Cook County and in other counties throughout the State. An expansion of existing facilities of this kind would appear adequate to handle the diagnostic problem; this applies also to the pre-trial investigation services which are being used increasingly and more effectively by the juvenile courts.

The most critical problem in dealing with the

juvenile sex offender lies in the lack of adequate treatment facilities and programs either within institutional environments or within the free community. Commitments of juvenile sex offenders for treatment are made to the State Training School for Boys (St. Charles), the State Training School for Girls (Geneva), the Sheridan Reformatory, and the Lincoln State School and Colony. Limitations of professional staff and the overcrowding of existing facilities prevent the organization of effective programs of treatment for sex offenders at these institutions. Furthermore, commitments of offenders with sex problems, particularly at the institutions for boys, represent a small proportion of the total admissions. For the three years from July 1. 1949 to July 1, 1952, the percentage of committed sex offenders to total admissions at St. Charles was 3.6 percent, and at Sheridan 2.4 percent. The comparable figure for the Training School for Girls was 32.8 percent, virtually all for reported sex delinquency. At Lincoln, for the fiscal year 1951 and 1952, the percentage was 16.1 percent. 1

Some benefits are secured as a result of prolonged periods of confinement in a controlled, closely supervised institutional environment where vocational, educational and group training may increase the maturity of the committed offenders. However, well-defined, specific programs of treatment directed toward the correction of deviant sexual patterns of behavior and of basic underlying personality disturbances do not exist. Without such institutional programs, exposure to pressure toward homosexual patterns of behavior actually may complicate the problem of sexual adjustment in many cases.

Alternative possibilities of treatment lie in private psychiatric care, private clinics, or placement and treatment under the direction of private social agencies. The costs of private care however, usually are prohibitive for the families of most juvenile offenders and treatment by private social agencies does not reach many of the most serious cases.

Frequently, juveniles placed on probation may secure treatment through the limited services established under the direction of the Institute of Juvenile Research, and often it is possible to obtain limited treatment for juvenile offenders in the out-patient clinics of the Mental Health Service attached to the State Hospitals.

Available resources, however, either within institutions or through out-patient services in the free community for the adequate treatment of juvenile sex offenders are severely limited. Isolation of the more seriously disturbed through competent professional diagnosis is of little advantage if adequate treatment possibilities do not exist. The situation requires the development of better treatment services at two levels: (a) treatment in the free community through the expansion of the services of mental health clinics attached to State and

l Percentage figures are based on data supplied by the office of Research and Statistics, Illinois Department of Public Welfare.

general hospitals, and (b) institutional treatment. For the less serious cases in which out-patient clinical treatment is sufficient, the most economical and effective program would involve the development of mental health services attached to both State and private general hospitals where psychiatric attention and emergency bed care most readily can be made available. For those requiring institutional commitment, there must be either a considerable expansion and reorganization of existing institutional services or the creation of a new institution specifically designed for the treatment of seriously disturbed juvenile offenders.

3. Minor Sex Offenders

The majority of sex offenders processed in the lower courts do not constitute a serious threat to the security of the community. Their offenses primarily relate to problems of morality, decency, and public annoyance. Though many of the offenders become well-known to the courts through repeated acts of the same nature, (i.e. homosexuality, molestations, indecent exposure, voyeurism), there is little that can be accomplished because of the lack of adequate treatment possibilities for these cases. The need for concentrating existing treatment resources on the more critical cases from the standpoint of community safety is apparent. The principal need in dealing with the minor sex offender at the enforcement and judicial levels is a diagnostic one. It is important that persons charged with minor sex crimes be subjected to competent professional diagnosis in order that the limited number of serious offenders may be screened out for intensive treatment. In the Municipal Court of Chicago referrals of sex cases routinely are made to the Psychiatric Institute attached to the Court. The close cooperation of the Court and the Institute has made possible the referral of dangerous cases for appropriate treatment. Though a limited number of commitments have been made to the Psychiatric Division of Illinois State Penitentiary System under Criminal Sexual Psychopath Law, the critical need at this level is for a combination of institutional care and out-patient clinical service. In the creation of an adequate system of clinical and institutional treatment for sex offenders, a set of clearly defined procedures should be provided for the referral of sex offenders found to be dangerous by competent psychiatric diagnosis.

The Psychiatric Institute of the Municipal Court of Chicago has proved its value to the Court in the disposition of sex cases. The establishment of adequately staffed mental health clinics attached to State and general hospitals could provide, in the same manner, an efficient diagnostic resource for the smaller volume of sex cases appearing before the courts of other municipalities and counties in the state. Permanent centers of this kind for diagnosis, temporary institutional care, and out-patient treatment appear to be a more effective solution to the adequate handling of sex cases in down-state counties than would be achieved solely through the device of a mobile diagnostic team. An impressive organization of permanent mental health clinics attached to the State Hospitals, zoned to provide mobile diagnostic and treatment services for adjoining counties, is in process of development. Expansion of this system to the point of fully providing for the diagnostic and community treatment requirements for sex offenders is a desirable action, particularly for minor sex offenders and those major sex offenders who are placed on probation or paroled back into the free community.

4. Major Sex Offenders

There appears to be increasingly wide-spread acceptance of the view that the limited resources now available, or likely to become available, for the treatment of sex offenders should be directed primarily toward those offenders who constitute the most serious threat to the safety of the community. Serious sex offenders generally are classified into two major groups: (a) those revealing a disposition toward the use of violence and coercion, and (b) those adult offenders disposed toward sex crimes against children. Such offenders generally require an intensive period of institutional treatment.

It is recognized that the patterns of sexual misconduct of minor offenders seldom progress to the level of major crimes. The behavior of minor offenders represents a complex pattern of sexual adjustment which strongly resists change in either direction. In fact, the sexual behavior patterns of minor offenders very often are harder to correct than those of more serious offenders from a community standpoint. In the light of these facts, there is a growing disposition to concentrate treatment resources on those serious offenders who exhibit underlying tendencies toward violence or crimes against children.

The most pressing current problems in the handling of major sex offenders lie in the need for establishing adequate diagnostic and treatment facilities and procedures by virtue of which the most serious offenders may be screened out for rehabilitative correction. These needs must be met whether the nature of the commitment proceedings be civil or criminal; however, the manner in which these needs are met administratively is very closely related to the question of whether civil or criminal proceedings are employed.

The Illinois Criminal Sexual Psychopath Law of 1938 has been described as a quasi-criminal proceeding since a petition can be entered only after a criminal charge has been made. In practice, it becomes necessary to demonstrate the occurence of the instant offense as well as to prove the occurence of a previous offense at least one year removed from the present offense. However, the commitment of an offender under this law has been interpreted by the Illinois Supreme Court as essentially a civil proceeding. In examining the commitments under this law, it was found that only 62 persons have been committed by the Courts to the Psychiatric Division of the Illinois State Penitentiary at Menard as criminal sexual psychopaths from 1938 to July 1, 1952. Furthermore, no com-

¹ People v. Sims, 328 Ill. 472 (1943)

mitments were made under this law from Cook County prior to 1946. It is apparent that the law has touched very few persons and has been attended by marked reluctance on the part of prosecutors and the courts to invoke its use. Preference has been shown toward action under the criminal law even though criminal sexual psychopathic proceedings could have been entered. This fact is further documented by much more frequent use of the 1947 Amendment to the penitentiary provisions of the Illinois Statutes. Under this Amendment it becomes possible for psychiatrists of the Department of Public Safety to classify any person in the Illinois State Penitentiary System as a criminal sexual psychopath if diagnosis justifies such action. In the five year period from July 1, 1947 to July 1, 1952, a total of 103 persons have been so classified and transferred to the Psychiatric Division. Though the 1947 Law does not require demonstration of the existence of the psychopathic condition for a year or more prior to the present offense, this criterion generally is used in practice. The majority of these cases assumably could have been committed under the provisions of the 1938 Law.

In view of the practical ineffectiveness of the 1938 Law, its tendency to create a false sense of community security, and the more extensive application of the 1947 Law, many have questioned the advisability of retaining the 1938 Law on the statute Though psychiatrists have expressed a books. willingness to testify as to the existence of a condition of sexual psychopathy and the possibility of continued deviant behavior, they resist the necessity to testify as to the criminality of such acts. The 1947 Law is regarded as more acceptable in this respect since its application follows on conviction Concern also has been for a criminal offense. expressed relative the indeterminate commitment provisions of the 1938 Law in view of the undeveloped, controversial state of psychiatric knowledge concerning sexual psychopathy and the possibilities for the infringement of individual rights and liberties outside the strict interpretations and personal safeguards of criminal law. It is held that the development of an adequate post-conviction law comparable to those now established in New York, New Jersey, and Wisconsin, or a modification of the Illinois Amendment of 1947 would work more effectively in practice than the 1938 Law, provide a larger measure of community security, and avoid the many disadvantages associated with the 1938 Law. This committee was divided on this question and some members upheld the desirability of retaining the 1938 Law on the grounds that its constitutionality has been tested. Those who support the Law believe it provides potentially a greater measure of security to the community since it does not require criminal convictions that are notably difficult to secure in sex cases due to the reluctance of witnesses to testify. It has also greater scope, it was stated, because it may be applied to persons charged with misdemeanors as well as felonies. These points are challenged on the grounds that the civil commitment law has not worked successfully either in Illinois or in other states, and that there are inherent dangers in the broad application of such a law which may result in indeterminate

commitments for a person charged with a misdemeanor or not actually found guilty of a criminal offense. It is held that this type of law represents a premature application of psychiatric knowledge of sexual psychopathy which does not contain such well-defined criteria as are found in civil proceedings relating to mental deficiency or insanity.

The problem of screening out sex offenders who represent a serious, continuing threat to the community may be seen as a problem of combining screening procedures and considerations of a legal and psychiatric nature. Screening by the agencies of criminal law is accomplished through the documentation and evaluation of proof as to the occurence and seriousness of the sex offense. Screening also may be carried out by competent diagnosis of the socio-psychological personality deficiencies of sex offenders. The difficulty lies in devising an integrated set of procedures through which the particular advantages of both types of screening to the individual and to society may be preserved and joined.

Selection decisions are made at various points in the handling of sex offenders by the agencies of criminal law. Decisions are made in the arrest of offenders, preparation of charges, preliminary hearings, voting of indictments, trial, finding, sentencing, institutional classification, and release on parole. The mortality of cases throughout this process is high. For example, the statistical report of the Chicago Police Department for the year 1951, notes that 495 persons were charged with rape (forcible and statutory). Of this number, 75 (15%) were found guilty as charged and 187 (38%) were found guilty of a lesser offense. Thus convictions occurred in slightly over one half, 53%, of the cases charged. The remaining 47% of the cases were eliminated through such actions as failure to vote indictment, dismissal, nolle prosse, stricken with leave to reinstate, and finding of not guilty.

A further indication of the screening effect of judicial action in sex offense cases is provided by the research data summarized in Table I. These data disclose the disposition of the cases of all indicted male sex offenders appearing before the Criminal Court of Cook County over a two year period from Sept. 1, 1945 to Sept. 1, 1947. 30% of the cases were eliminated by virtue of a finding of not guilty or no finding being made. This Table also reveals the screening effect exercised by the court through the sentencing power. Sentences to institutional confinement were made in 44% of the cases. Though not shown in Table I, a further breakdown discloses that 38% of these cases were committed to the penitentiary, 4% to jail, and 2% to mental hospitals. On the other hand, 24% were released on probation, either directly or subsequent to a brief period of jail confinement, and 1.5% were This Table also shows the dispositional breakdown for different types of sex offenses. It points up various distinctions made in handling different types of cases, such as the noticeable distinctions made in the disposition of cases of forcible rape and statutory rape.

TABLE I
DISPOSITIONS BY CRIMINAL COURT OF COOK COUNTY OF ALL INDICTED
MALE SEX OFFENDERS, SEPTEMBER 1, 1945 TO SEPTEMBER 1, 1947 (1)

					TYPE OF OFFENSE							
Court Disposition	Assault		Forcible Rape		Statutory Rape		Other Sex Crimes- Victim Over Age 15		Other Sex Crimes- Victim Under Age 15		TOTAL	
	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%
Institutional Confinement in Penitentiary, Jail or Mental Hospital	60	50.4	79	47.6	27	23.9	23	60.5	102	45.9	291	44.2
Probation-or-Jail and Probation	20	16.8	3	1.8	63	55.8	8	21.0	65	29.3	159	24.2
Fined	10	8.4		-	-	-	-	-	-	-	10	1.5
Found Not Guilty	23	19.3	68	41.0	18	15.9	5	13.2	53	23.9	167	25.4
No Finding-Case Stricken on Leave to Reinstate, Nolle Prossed, Dismissed	6	5.1	16	9.6	5	4.4	2	5.3	2	.9	31	4.7
TOTAL	119	100.0	166	100.0	113	100.0	38	100.0	222	100.0	658	100.0

(1) Data obtained by Don T. Blackiston Ph. D., Department of Sociology, University of Chicago.

No general agreement exists as to what stage in criminal proceedings the results of professional diagnosis, concerning the personality defects and treatment needs of the sex offender, should be introduced. Many observers think that professional diagnosis of all major sex offenders should precede trial for the offense. Under this procedure it would be possible to isolate those cases in which civil commitments for mental deficiency, insanity, or criminal sexual psychopathy would be preferable to criminal action. Pre-trial diagnosis has been criticized on the grounds that it may be defeated as an effective procedure by the refusal of persons facing criminal charges to cooperate in the diagnosis on the basis of constitutional guarantees relating to self-incrimination. Such questions would be avoided by introducing professional diagnosis after conviction and prior to sentencing. In other respects, the relative merits of pre-trial as opposed to presentence diagnosis follow much the same arguments advanced for and against civil commitment procedures for criminal sexual psychopaths.

Professional diagnosis is limited primarily to cases being considered for civil commitment. At the present time, there is no professional facility serving the Criminal Courts of Illinois which is adequately staffed to furnish competent diagnosis for all major sex offenders. In Cook County, the Behavior Clinic of the Criminal Court is not staffed adequately to handle all such cases in addition to requests for diagnosis in other types of criminal cases. In other counties of the state, it is even more difficult to secure professional assistance of this

kind for the court. There is a clear need for establishing an adequate diagnostic service for the courts in the cases of major sex offenders. In the opinion of this committee, the system developed in New Jersey whereby sex offenders are committed for an observation period of 60 days to a centralized diagnostic center following conviction for a major offense has many advantages. Complete psychiatric study and social investigations in the community can be conducted and a comprehensive report and set of recommendations prepared for the court. Sentence of the offender then can be made in accordance with the treatment needs of the individual Since the commitment to the diagnostic center follows conviction for a sex crime, difficult questions relating to the constitutionality of civil or pre-trial procedures are avoided. Diagnostic commitments should be required upon conviction for specified types of serious sex crimes and also should be possible at the discretion of the court in other types of sex crimes where professional diagnosis and recommendations are needed. Since it has been estimated that 90 percent of the psychiatrists in Illinois reside within the Chicago area, the location of the diagnostic center near Chicago would greatly reduce the problem of securing an adequate staff.

5. INSTITUTIONAL TREATMENT OF ADULT SEX OFFENDERS

Treatment possibilities for adult sex offenders are somewhat complicated in Illinois by the separa-

ation of treatment services between the Department of Public Welfare and the Department of Public Safety. Convicted adult male offenders are committed to the penitentiary system under the administrative jurisdiction of the Department of Public Safety. The major resources for treating mental health problems, however, are concentrated in the Department of Public Welfare. Bridging this separation of functions is the Psychiatric Division of the Illinois State Penitentiary at Menard. Civil commitments under the 1938 Criminal Sexual Psychopath Law are made directly to this Psychiatric Division of the penitentiary system. The Psychiatric Division also receives transfers from the other branches of the penitentiary system. These transfers represent cases of offenders who exhibit severe personality or mental disturbances in prison. They include also cases classified as criminal sexual psychopaths prior to the expiration of sentence under the authority of the 1947 Amendment to the Penitentiary Provisions of the Illinois Statutes.

Though the Psychiatric Division is the major treatment resource of the Department of Public Safety for dealing with the mental health problems of criminal offenders, little actually can be accomplished under existing conditions. The current population of the Psychiatric Division totals 470 inmates of whom slightly over one-fifth are classified as criminal sexual psychopaths. The treatment staff consists of one part-time psychiatrist, one psychologist, and one sociologist whose duties also include the diagnosis and review of cases confined in the General Division at Menard. Obviously, little can be expected from such a limited staff in the direction of counseling and therapy. Efforts of the staff of the Psychiatric Division to introduce substantive programs of treatment have been handicapped by the lack of adequate therapeutic facilities. The activities of the inmates in the Division are limited to work in the dining room, laundry, kitchen, and cell-house cleaning. No facilities exist for vocational and work therapy directed toward the treatment needs of the inmates. Recreation and leisure-time pursuits are limited to walking or limited exercise within the enclosed yard separating the Psychiatric Division from the General Division. Use may be made of books in the institutional library and a few inmates pursue educational interests through outside correspondence courses. From a medical standpoint, treatment is limited to routine medical care. Penicillin and segregation are provided for active luetics. Rehabilitative surgery is employed in some cases. No active treatment such as shock therapy, lobotomy, etc. is undertaken.

Limitations of staff and facilities reduce the treatment program to the diagnosis and review of cases and the prevention of overt acts of misbehavior. Aided in some measure by the limited counseling opportunities that the present professional staff can provide, progress in most cases is a product of such self-reflection and maturation as may occur under these conditions of confinement. Repeated efforts of the staff to speed up this process by enlarging the treatment opportunities have been defeated by the lack of facilities, funds and general

interest. Treatment of the criminal sexual psychopath at the present time at Menard amounts to little more than confinement. This situation can not be expected to improve materially until there is legislative recognition of the problem.

The treatment situation is much the same within the Illinois Security Hospital of the Department of Public Welfare at Chester. Under the 1947 Amendment it is possible to commit criminal sexual psychopaths to the care of the Department of Public Welfare through a civil proceeding at the expiration of the criminal sentence to the penitentiary. Most of these offenders are segregated at the Security Hospital. The population of this institution currently averages 400 patients of whom approximately four percent have been committed as criminal sexual psychopaths. The treatment services are under the direction of one part-time psychiatrist. Though some vocational rehabilitation is attempted, the institution has neither the staff nor the facilities to provide intensive therapeutic treatment required for sex psychopath cases. Other mental hospitals in the Department of Public Welfare are not in positions to handle these types of cases as the population of these hospitals currently is 47 percent in excess of normal bed capacity, and as they lack the security, therapeutic facilities and staff to cope with any considerable number of sex psychopath commitments.

The bulk of the sex offenders sentenced to the penitentiaries are not classified as criminal sexual psychopaths. From July 1, 1947 to July 1, 1952, a total of 727 sex offenders were admitted to the Illinois State Penitentiary System. Of this number, a total of 61 prisoners were classified as criminal sexual psychopaths and transferred to the Psychiatric Division. These figures indicate that approximately 8% of the sex offenders admitted to the penitentiary are likely to be classified as criminal sexual psychopaths while the remaining 92% will receive the treatment accorded the general prisoner. Such treatment provides for educational and vocational training opportunities. However, the limited professional staff is unable to carry out programs of individual counseling and therapy except for a small number of cases. Most professional contacts are confined to classification, reclassification, and release progress reports. At the Pontiac Branch of the Penitentiary, it has been possible to study closer the institutional adjustment of individual cases and to schedule occasional counseling interviews. Though no follow-up results are available in regard to the subsequent free community readjustment of these cases, the efforts of the staff in counseling and careful selection of work assignments and cell partners have resulted in more satisfactory prison community adjustments.

More intensive treatment programs are needed for seriously disturbed sex offenders, if refinements in the legal disposition and diagnostic review of such cases are to be fruitful. There is increasing acceptance of the fact that a specialized institution should be created to handle cases of this kind. It has been suggested that a centralized diagnostic center for the temporary commitment and

study of major sex offenders be created near Chicago to service the Criminal Courts of Illinois. Such a center, adequately staffed and equipped, also could carry out treatment and research functions. Systematic study, experimentation and research must be undertaken with regard to the treatment of sex offenders before professional knowledge will be able to provide adequate protection for both the individual offender and society. These objectives can best be pursued in such a specialized facility. Commitment of convicted sex offenders for screening and treatment to a center of this kind should be a routine procedure. Opportunity should exist also for the transfer of cases from or to this facility and other institutions in the Department of Public Safety and the Department of Public Welfare in accordance with the treatment needs of individual cases. It should be possible for sex deviators to submit themselves voluntarily for diagnosis and treatment at such a center. Authority to parole offenders from this center to the free community, under supervision, should be regarded as an essential phase of the treatment program. Though there are a number of administrative problems to be considered in the organization of such a facility, the solution of these should not prove difficult. The many advantages to be derived fully justify the expenditure of funds and effort involved in the establishment of such a specialized institution.

The release procedures of this center not only should be coordinated with the parole organization of the State of Illinois but also should provide for continued professional counseling through out-patient clinics attached to general and State Hospitals in the community.

6. CONCLUSION

This survey of diagnosis and treatment opportunities for sex offenders in Illinois has sought to disclose those steps, which may be taken to bring about an integrated and effective controlling of the sex offender problem. The major considerations raised are the following:

- (1) The efforts of law enforcement officials and prosecuting attorneys in the apprehension and trial of major sex offenders throughout Illinois, would be furthered through the organization of a centralized record system for sex offenders;
- (2) Expansion of existing diagnostic facilities and the development of additional treatment possibilities for juvenile offenders would ensure more effective disposition of the cases of youthful sex offenders;
- (3) The further development and fuller utilization of out-patient mental health clinics to service the diagnostic needs of the courts and to provide clinical guidance and treatment for offenders in a free community setting would fill a conspicuous gap in current programs for handling both minor and major sex offenders;
- (4) Careful reconsideration needs to be given to the advisability of retaining pre-trial civil commit-

ment procedures for sex offenders outside the safeguards of criminal law;

- (5) In establishing adequate diagnostic services for the courts in cases of sex offenders, consideration should be given to the advisability of introducing such diagnostic study in the pre-trial or post-conviction stages of the criminal proceedings;
- (6) A direct attack should be made on the problem of providing adequate diagnosis, treatment, and research in the cases of major sex offenders by the establishment of a centralized institutional facility, adequately staffed and equipped to carry out these functions.

V: REPORT OF THE SUBCOMMITTEE ON RELEASE PROCEDURES AND COMMUNITY ADJUSTMENT

1. Probation

In Illinois, sex offenders may be admitted to probation, if otherwise eligible, upon conviction of a sex offense other than Rape of a female forcibly and against her will or upon conviction of incest. It is presumed that in some instances, where the original charge was or could have been one of these two excluded offenses, probation is sometimes given by charging another or lesser offense.

Probation services are neither universal nor uniform in Illinois. Many counties in the southern part of the state have no salaried probation officer in either the county or circuit court. Where counties do have probation officers, the quality of the service varies. No standards are set by statute or otherwise for probationary personnel nor for the execution of a probation service other than for the following stipulation appearing in Chapters XXIII and XXXVIII of the Statutes:

Circuit Court probation officers "shall be of good character and shall possess such other qualifications as may be provided by rules to be adopted by such courts," and County Court probation officers shall be "discreet persons of good character"

At least two courts in Illinois have available a public clinical service for diagnostic purposes, and some courts adjacent to facilities of the State Department of Public Welfare make occasional use of Welfare staff persons on a loan basis. We know of no readily available public clinical service being used for treatment of sex cases in conjunction with regular probationary supervision. In a few situations, courts have granted probation to sex offenders where their families were able to provide suitable psychiatric treatment during probation.

2. Parole

Sex offenders committed to the penitentiary under the Sentence and Parole Act are eligible for parole in the same manner and under the same rules applicable to other offenders and they are not treated differently in the Statutes except in two instances as follows:

(a) The Statutes provide (Chap. 108 sec. 112) that a person committed to the penitentiary for rape, incest, crime against nature, taking indecent liberties with a child or for an attempt to commit any of these crimes, shall, before he "in released upon the expiration of his sentence" have a hearing before the county court in which the institution is located, to determine whether such convict is insane or feebleminded or is a criminal sexual psychopath. The action is instituted by the Department of Public Safety, whose staff works up the psychiatric report in each instance. The court costs, averaging \$35.00 per case, are paid by the Department of Public Safety. If there is a finding of any one of these three conditions, the convict is committed to the Department of Public Welfare at the expiration of his penitentiary sentence.

By provision of the same section, before any inmate convicted of any of the enumerated sex offenses may be released on parole, a court hearing as outlined must be held. If such convict is found not to be insane, or feeble-minded or a criminal sexual psychopath, he may be released upon parole at the discretion of the Parole and Pardon Board.

(b) A person declared to be a criminal sexual psychopathic person at the time he is charged with a criminal offense, is committed to the Department of Public Safety to be confined in the Psychiatric Division of the Illinois State Penitentiary System or in the Illinois Security Hospital. As a matter of practice, no commitment is now made to the latter institution since it is under the jurisdiction of the Department of Public Welfare.

There is no provision for parole of such individuals. If, after commitment, he is found "recovered" by a court, he is returned to the county where the crime was committed in order to stand trial. If prosecution fails, he returns to the community a free person. (In one known case, after a finding of guilty, the recovered sex psychopath was given probation. In this instance the man returned to the community under supervision). If he is found guilty of the old sex charge and sentenced to the penitentiary as a felon, he may become eligible for parole and could be released on parole if upon a hearing he is found not to be, at that time, a Criminal Sexual Psychopath.

3. Comment on Parole of Sex Offenders

Sex offenders granted parole from the penitentiary by the Parole and Pardon Board are under supervision of the Division of Supervision of Parolees, Department of Public Safety. Others serving sentences for sex offenses, if not paroled, leave the prison at the expiration of sentences, without supervision. In certain cases, the Board order for parole may be contingent upon arrangements being made for psychiatric service in the free community. However, we know of no agency willing gratuitously to undertake extensive psychotherapy in the free community for parolees needing such treatment.

As some time during the period of 1948 through 1951, forty sex offenders were on parole from the Illinois Penitentiary System and under supervision of the parole office in the Chicago area (Cook, Lake, DuPage, Kane and McHenry Counties). Twentythree had been sentenced for Rape, Statutory Rape, or Attempted Rape. During the period, one violated parole, eleven were discharged by recommendation or by expiration of sentence and eleven remained under supervision. Five of the forty had been sentenced for Incest. One has been discharged, one died and three still are under supervision. Nine had been sentenced for Indecent Liberties. Two have been discharged, one died, one was turned over to the Immigration authorities while five still are under supervision. Three had been sentenced for Crime vs. Nature. One has been discharged, two still are under supervision.

In other words, out of the forty cases, one violated; fifteen were discharged; twenty-one remained active; two died and one had been turned over to other authorities. (See Table II for data on parole sex offenders compared with other types of offenders.)

Warden Joseph E. Ragen, of the Joliet-Stateville Divisions of the penitentiary, presents the following data on men, serving sex offenses, who have been taken to court for hearings before release upon expiration of their sentences:

- (a) From July 1, 1947 to June 30, 1952, 343 such inmates were taken into the Will County Court for a hearing. Out of this group five were found to be criminal sexual psychopathic persons and were committed to the Security Hospital upon their release from Joliet-Stateville; one was committed to the Manteno State Hospital and one to the Dixon State Hospital.
- (b) Fifty-two additional Joliet-Stateville inmates have had hearings in the Will County Court (January 1, 1951 to July 15, 1952) during their sentence at the request of the Parole and Pardon Board prior to their appearance before the Board for parole consideration.
- (c) At an average of \$35.00 per case for court costs, the 343 men having hearings, July 1, 1947 to June 30, 1952, cost the Department of Public Safety \$12,000.00 to "discover" and commit five Criminal Sexual Psychopathic persons. Actually the five cases were discovered by the institutional staff and the case material was worked up by the Department psychiatrists. It should have been necessary to take to court only the five known cases for the hearings, at a court cost of \$175.00.

4. Misdemeanants

We have not discussed the many sex offenders arraigned as misdemeanants in the J.P., Magistrates Court and the Municipal Court of Chicago. Excepting the Municipal Court of Chicago, none of these courts has supervision services regularly available either before or after a jail or workhouse sentence. Such

persons arraigned, convicted and granted probation as misdemeanants in County Courts would have gular supervision service available only in those

counties having a probation staff and only for a maximum of one year.

TABLE II

VIOLATION RATES FOR 7949 PAROLEES FROM THE STATEVILLE - JOLIET BRANCH

ILLINOIS STATE PENITENTIARY SYSTEM 1936-1944, FOR VARIOUS CLASSES OF OFFENSES (1)

Offense	No. of Cases	No. of Violators	Violation Rate	No. of Technical Violators	No. of Major Violators	Ratio of Technical To Major
Homicide and Assault	385	52	13.5	36	16	2.2
Robbery	3197	842	26.3	468	374	1.3
Burglary	1726	651	37.7	404	247	1.6
Larceny and Stolen Property	1626	513	31.6	306	207	1.5
Forgery and Fraud	643	218	33.9	138	80	1.7
Sex Offenses	153	18	11.8	12	6	2.0
Miscellaneous	219	52	23.7	40	12	3.3
TOTAL	7949	2346	29.5	1404	942	1.5

⁽¹⁾ Research data, Parole and Pardon Board, Illinois Department of Public Safety.

I. Introduction

The work of this Committee was concerned with the problem of surveying the experience of the other American states and other nations in dealing with the social problems presented by the sex offender and the sex deviate. The Committee has not attempted to draw specific conclusions or formulate legislative recommendations on the basis of the data collected. It is hoped, however, that the data will assist in reaching sound conclusions. This report does not in any sense represent a comprehensive survey of the field assigned for study. In general, the sources consulted have been restricted to published, readily-accessible materials. Even within these limitations the report has been restricted to representative data which seems to illustrate, in the shortest compass, the essential facts and the more significant trends.

This report considers three groups of problems: First, what do representative statistics disclose as the probable extent of sex crime in other states and what light do they throw on the probable magnitude of the social problem?; second, what is revealed by a study of the legal framework of other jurisdictions within which sex crime is defined and the sex offender is apprehended, confined and/or treated? and third, what techniques have been developed and what facilities have been provided in other states to prevent socially dangerous sex conduct and to treat the sex offender? Discussion of the last category is abbreviated both because published information is scarce and because these problems have been the subject of extensive consideration in two of the other Areas.

II. The Incidence of Sex Crime

Caution is required in any use of criminal statistics, in general, and those relating to sex crime, in particular. Methods of crime reporting are in most areas afflicted with serious infirmities. Furthermore, it is clear that only a fraction of the conduct defined as criminal by the statutes is ever brought to the attention of the law enforcement agencies. Finally, the data which are collected often are not presented in the most helpful form. Thus in many of the reports, statistics for rape do not distinguish between the forcible and statutory types, although different degrees of social concern may be involved in the two species of the crime.

With these reservations in mind, it may be useful to note the trend of certain recent statistical studies. First, what fraction of the prison population represents commitment for sex crime? In Michigan, it was reported that prison commitments for sex felonies and high misdemeanors during the five years, 1945-1949, inclusive averaged about 1 in 9. This represented a decline of 13.3% of all criminals annually committed as sex offenders during the preceding eight years, 1937-1944, inclusive.

See Sellin, "The Uniform Criminal Statistics Act" 40 Jour. Crim. Law 679 (1950). Not all convicted sex felons, however, are sent to prison. In 1948, convictions for sex felonies and high misdemeanors in Michigan totalled 629, of which the number 260, or 41% were committed to prison. Slightly over 7% of the 4,850 boys brought into Michigan's 83 juvenile courts during the 18 months, January 1, 1949 to June 30, 1950 were brought in as sex offenses. 2 In a California report it was stated that in the total prison population, 1947-1948, 3.2% of the male prisoners were committed for rape and 5.7% of the total were committed for other sex offenses. 3 In the Indiana State Prison as of June 30, 1947, 5% of the prisoners had been convicted of rape and about 4.6% of other sex crimes. 4

Uncritical reliance on statistics to determine whether serious sex crime has been increasing or decreasing throughout the country in recent years is particularly hazardous for the reasons earlier suggested. The Uniform Crime Report shows an increase in rapes reported to the extent of 3.3% in 1951 over the preceding year. 5 This figure, presumably, refers both to forcible and statutory rapes. It is significant that a number of recent intensive studies have found no basis for the conclusion that there is a general trend toward increase in serious A recent report from California sex offenses. contains the following statement: "Available statistics thus do not support the widely held belief that juvenile as well as adult sex crime is rapidly increasing. The opinion is without factual foundation, and has no doubt arisen as a result of the extensive, sensational publicity given to a relatively small number of sensational but unreliable articles appearing in national magazines and other publications."6

Recent studies have emphasized the necessity for distinguishing the degrees of seriousness of various forms of sexual conduct deemed criminal. An interesting technique for measuring the danger of serious sex crime was developed by Professor Edwin H. Sutherland. A tabulation was made of all cases of murder of females reported in the New York Times for the years 1930, 1935 and 1940. Only 17 of the 324 such murders reported involved rape or the suspicion of rape. On the basis of these tabulations, Sutherland concluded that it is doubtful whether there are as many as 100 of such murders each year in the entire country and the figure may be as low as 25. Sutherland stated: "The danger of murder by a relative or other intimate associate is

² The figures are from the Report of the Governor's Study Commission on the Deviated Sex Offender (1951).

³ State of California, Biennial Report of Department of Corrections 107.

⁴ State of Indiana, Report and Surveys of the State Penal and Correctional Survey Commission (Nov. 1948) 143.

⁵ Uniform Crime Report (1951) Vol. XXII, No. 2 p. 72.

⁶ State of California, Sexual Deviation Research (March, 1952) 19.

very much greater than the danger of murder by an unknown sex fiend. In fact, in one of the three years as many females were murdered by policemen -- two cases, both involving drunkenness of policemen -- as by the so-called sex fiends."7

Recent studies have emphasized that there is little evidence that minor sex offenders generally progress to serious sex offenses. 8 Indeed, there may be more correlation between propensities to commit serious sex crimes and other felonies such as burglary than between the commission of serious sex crime and sex misdemeanors such as exhibitionism and voyeurism. 9 The bulk of arrests for sex crime probably is made for the sex misdemeanors. In the city of New York the average number of arrests for indecent exposure for each five-year period from 1930-1949 was as follows:

1930-4	280
1935-9	408
1940-4	516
1945-9	381

That these figures are representative of the experience of other large cities is indicated from the fact that in 1948, 110 arrests were reported in Baltimore, 60 in Detroit, 137 in Los Angeles and 109 in Spokane. 10

It appears clear that certain of the sex crime statutes remain virtually unenforced. In New York, adultery is the sole ground recognized for divorce. In 1948 six thousand divorces were granted in New York City, yet the Annual Report of the Police Department for the same year shows no arrests for adultery. This record is not atypical.

In concluding this section, attention is directed to the statement appearing in the above-cited report of the Michigan Commission.²

"It is not the intention of this Committee to gloss over the brutal fact that sexual crimes constitute a serious part of all crimes and do threaten the safety and happiness of several thousand women and children in this State every year. Yet in the total picture of all crime and of all mental suffering, sexual crime contributes only a very minor part. The assaultive sexual deviate -- dangerous as he is -- actually constitutes a far less imminent threat to the lives and happiness of women and children in Michigan than do the irresponsible car driver and the emotionally immature parent."

III. The Legal Framework

All organized societies probably have recognized certain sexual practices as undesirable and have sought to enforce approved standards of sexual behavior through various agencies of social control. Certainly, the regulation of conduct in sexual matters traditionally has been an important concern of the legal system.

l. Definitions of criminal sex conduct. Important parts of the criminal code of every state are the provisions defining sex crimes and providing sanctions and penalties for such crimes. As might be expected, considerable variations appear in the definitions of conduct deemed criminal and even greater variations in the penalties authorized for such misconduct. These variations, to an indeterminate degree, reflect differences in cultural factors, traditions, the kinds of problems presented, and the consequent community attitudes, but much of the diversity is the product of accident and the unsystematic burgeoning of statutory provisions. Few states have undertaken an orderly reconsideration of their code provisions relating to sex crime in the present century.

Forcible rape, generally defined as the carnal knowledge of a woman forcibly and against her will, has been made a felony in all the states. While there is a fair degree of uniformity in the verbal definitions, considerable variations have developed among the states as to many related issues. What degree of force is required? How vigorous must be the resistance of the victim? Is the crime committed when consent of the woman is obtained by "fraud?" Variations have developed, too, with reference to certain problems of proof as, for example, the problem of whether the uncorroborated testimony of the prosecuting witness is sufficient to sustain a conviction. Even more striking are the variations in punishment provided by the state statutes. In eighteen states the penalty From 1930 to 1948, of death may be imposed.4 316 persons were punished capitally for rape - a figure exceeded only by the number of those so punished for murder.5 On the other hand, the maximum sentence for forcible rape in Rhode Island is five years imprisonment, and in the other states there are gradations of punishment between these extremes.

Statutory rape also is a part of the criminal law of all the states. These statutes condemn carnal knowledge of female minors below an "age of consent" whether or not force was employed by the defendant or whether or not the female consented. The age of consent in the American states is typically sixteen or eighteen years, although in Delaware

⁷ Sutherland, "The Sexual Psychopath Laws" 40 Jour. Crim. Law" (1950) 454--546.

⁸ Michigan Report on the Deviated Criminal Sex Offender (1951); New Jersey Report on the Habitual Sex Offender (1950) 14.

⁹ Guttmacher, Sex Offenses: The Problem, Causes and Prevention (1951) 131.

¹⁰ Ploscowe, Sex and the Law (1951) 161.

l Id. at 156-157.

^{· 2} Michigan Report 25.

³ See Bensing, "A Comparative Study of American Sex Statistics (1951) 42 Jour. Crim. Law 57.

⁴ Alabama, Arkansas, Delaware, Florida, Georgia, Kentucky, Louisiana, Maryland, Mississippi, Missouri, Nevada, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, Virginia, West Virginia

⁵ Ploscowe, Sex and the Law (1951) 165.

the age is placed at seven years and in Tennessee at twenty-one. Generally, in American law, belief by the defendant that the girl is above the age of consent is no defense to a prosecution for statutory rape. Some states take into account the reputation of the female for chastity or the age of the defendant, but such modifications are not typical. Here again, variations exist among the states in the punishment authorized. The death penalty is permissible in sixteen states under various circumstances, and life imprisonment is available in thirty In Missouri, a range of punishment from death to one month in the county jail or a \$100 fine is provided for varying circumstances. In addition to the statutory rape laws, the states generally punish other forms of sexual molestation of children with, again, great variations of punishment provided.

Homosexual practices are specifically condemned in virtually all the state codes. Sodomy has been made a felony in all but two states. Punishments range from a possible minimum fine of \$ 100 in Indiana to a possible maximum sentence of thirty years imprisonment in five other states.

Particularly interesting are the varying attitudes revealed in the provisions of state criminal codes relating to voluntary, extra-marital sexual intercourse. In all but three states adultery is made criminal. In thirteen states, however, single and isolated acts are not punished. These states require proof of a pattern of adulterous conduct. The Illinois statute, for example, requires proof that a "man and woman... (have lived) in an open state of adultery." Here, too, the range of punishments provided by the states is striking. Vermont authorizes a sentence of five years imprisonment and/or a maximum fine of \$5,000. In Kentucky a fine of as little as \$20 may be imposed.

Sexual behavior may be punished under provisions of the criminal codes which are not confined in their applicability to the sex offender. The "disorderly conduct" provisions, the simple assault statute, and many others are regularly employed in all the states in dealing with sex offenders.

2. Recent trends in defining and punishing substantive sex crimes. Despite the unusual amount of thought and attention directed in recent years to the problems of sex crime, no general tendency toward systematic legislative reconsideration of the substantive sex crimes and their punishment may be discerned among the states. Some legislative reexamination has occurred in a few states, however, and the results of that study should be considered.

Recent legislative innovations in the State of New York are of particular interest. In 1947 both houses of the New York Legislature passed a bill which provided for the commitment of certain sex offenders in the general pattern of the "sex psychopath" laws described below. The bill, however, was vetoed by the Governor on the ground that its provisions went too far on the basis of present scientific knowledge and the inadequacy of facilities and personnel available for use in the treatment of persons committed. The following year, a statute was enacted providing

for the establishment of a clinic in Sing Sing Prison for the study of a group of sex offenders. After a 20-month study of 102 sex offenders, the research was completed and a report filed including the following recommendation:

"The need exists for a law to protect women and children from certain dangerous sex offenders who, under present law, are held in prison for limited periods and then must be released, regardless of whether there is any improvement of the mental or emotional condition which caused them to commit abnormal crimes against the person; therefor,

"We recommend legislation providing that when any offender be convicted of rape or sodomy involving the use of force or violence, or against small children, or convicted of felonious assault involving a sexual purpose, the court after psychiatric examination of such offender may sentence such offender to serve an indeterminate sentence of one day and a maximum of the duration of his natural life;"

Following the issuance of the report, the New York Legislature enacted several amendments to the sex crime provisions of the criminal code. Thus punishment for forcible rape was modified to permit, in the alternative, an indeterminate sentence of from one day to life imprisonment. 1 A significant change also was made in the statutory rape provisions. New York now distinguishes between defendants under the age of twenty-one years and those of that age and above. Statutory rape (rape in the third degree) is made a misdemeanor where the male is a member of the younger group.2 This change apparently is based on the belief that intercourse between minors may represent sex experimentation with dangers to the community of a lesser order than in situations in which there is a substantial age disparity between the male and the female. Indealing with homosexual practices, a significant new approach is revealed. The sodomy section distinguishes between acts performed upon an unwilling victim and those performed where consent is present. In the first case, the same punishment as in forcible rape is provided. In the second case a lesser, though severe, sentence of not more than ten years imprisonment is provided. The section, like the rape law, reduces the crime of sodomy to a misdemeanor where the defendant is under twenty-one years of age. 3 Consistently with the pattern of the rape and sodomy statutes, the New York Legislature modified the provisions of the criminal code relating to the carnal abuse of children providing, again, for the imposition, in certain situations, of the indeterminate sentence of from one day to life imprisonment. 4

The New York amendments of 1950 may be indicative of a new trend in the drafting of criminal provisions relating to sexual misconduct. These sections appear to be based on the conviction that social concern with sexual misconduct is greatest in those

¹ N.Y. Penal Law, Supp. £2010.

² Ibid.

³ Id. Supp. 690.

⁴ Id. Supp. 483-a -- 483-b.

situations where force has been employed or where substantial age disparity exists between the defendant and his victim.

In contrast to the New York amendments to the sodomy statutes, California recently has increased the maximum penalty for that crime from ten to twenty years imprisonment. The California law makes no distinction between acts of force and those to which consent is given. No variations in penalties are provided in terms of the age of the defendant. On the other hand, the section relating to fellatio was amended to provide, as an alternative to the penalty of imprisonment not exceeding 15 years, a term of imprisonment in the county jail not to exceed one year. 2 In addition, California has enacted provisions intended to increase the efficiency of enforcement of the sex laws. These include provisions for the forwarding of finger prints and descriptions of offenders to a central state agency and provisions relating to registration of sex offenders.

Following publication of the recommendations of the Michigan Commission on the Deviated Sex Offender, the Michigan State Legislature enacted a number of provisions relating to the problem. Of particular interest are the new sections providing that when a defendant is charged with certain offenses he may be charged also as a "sexually delinquent person." Expert testimony may be introduced on that issue, and if the defendant is found to be a "sexually delinquent person" a sentence of one day to life imprisonment may be imposed as n alternative to the penalty authorized for the substantive crime of which the defendant is guilty!31 These provisions modify the recommendations of the Commission which would have authorized the imposition of the indefinite term in the court's discretion following an advisory psychiatric opinion based on an examination of the convicted defendant. 4

In Wisconsin, where a comprehensive revision of the criminal code is pending, important legislation was enacted in 1951. The new law provides that whenever a defendant is convicted of rape, assault with intent to commit rape or carnal abuse, liberties with a female child, or indecent liberties with a minor, he shall be committed to the Department of Public Welfare for a presentence examination. Defendants convicted of other sex crimes may be committed for the same purpose if the Department certifies it has facilities available to make such examination and indicates willingness to do so. Upon completion of the examination, a report is forwarded to the trial court. If the Department recommends specialized treatment, the defendant may be placed on probation on condition that he will receive outpatient service or he may be committed to the Department. The defendant may be retained so long as the Department believes such control is necessary for the protection of the public. In no case may a person convicted of a felony be released in less than 2 years without the written approval of the committing court. To retain a person in custody beyond the maximum term for the crime of which he has been convicted, an order must be obtained from the committing court. 5

These descriptions are illustrative only of certain recent legislative innovations in the area of sex crime and punishment. Although, it is not the function of this committee to suggest specific legislative recommendations, several inferences may be derived from this portion of the study: (a) In most states the task of rationalizing the statutory provisions relating to the definition and punishment of sex crime is yet to be undertaken in any systematic fashion, (b) The recent legislation displays a tendency to reserve the more severe penalties for acts of force and violence and those involving substantial age disparities. There is also evidence of increasing use of the indeterminate sentence for the treatment of certain kinds of sex offenders, (c) The best of the recent legislation leaves much to be desired in its theory and its practical implementation.

3. The "Sex Psychopath" Statutes. Since the enactment of statutes in Michigan and Illinois, approximately one-third of the states have passed laws authorizing the indefinite commitment of individuals deemed to be potentially dangerous with reference to sexual conduct. An act of the same sort has been made applicable to the District of Columbia. This report includes a chart comparing the crucial provisions of representative statutes in this field. Statutes of a considerably different character, such as the recent enactment in New Jersey, have been included in the chart to further comparison. Textual discussion of these statutes will be limited to a number of general considerations.

Despite the popularity of the "sexual psychopath" laws with state legislatures, these acts have been the subject of considerable controversy. With a few exceptions they have not been used widely in the states in which they are in effect. On the basis of the evidence presently available, there probably is no convincing evidence that they have materially reduced the quantum or seriousness of sex crime. Whether this result is inherent in this sort of legislation, or whether the laws can be made more effective through statutory amendment, this Committee does not take a position.

The central problem presented by the "sexual psychopath" laws has been the difficulty of establishing criteria sufficiently definite to identify the class of persons who are to be committed for an indefinite term. The seriousness of this problem is further indicated when it is noted that under the provisions of at least five of the laws, even a criminal charge need not be outstanding against the person proceeded against, and in several others only a criminal charge and not a conviction of a sex offense is required. Professor Edwin H. Sutherland, a critic of these laws, asserted that under the statutory definitions "anyone who commits several serious sex crimes is a sexual psychopath; a finger-print record is-the only evidence needed for diagnosing

¹ Cal. Penal Code (Deering) Supp. 286.

^{2 &}lt;u>Id</u>. Supp. 288 (a).

House Bills Nos. 65 and 66 (1952).

⁴ Report of the Michigan Commission 14 (1951).

^{·5} Wis. State £340.485 (1951).

an offender as a psychopath and the services of psychiatrists are not needed. 1 Dr. Manfred S. Guttmacher has stated: "In actual practice, although all of the statutes provide that medical opinion must be the basis for commitment, expert opinion often plays a minor part." 2 It has been observed also that there has been a tendency for prosecutors to employ these statutes for relatively minor offenders such as the voyeur or the exhibitionist, using the regular criminal processes where serious offenders are involved. 3

A second problem associated with the "sexual psychopath" laws has been the absence or inadequacy of specialized facilities for the treatment of persons subjected to indefinite confinement. This general lack of specialized treatment programs, as a practical matter, has made commitment under these statutes substantially penal in character, although in theory the proceedings usually are civil and many of the procedural safeguards associated with criminal proceedings have been eliminated.

Finally, the matter of release procedures has been a source of difficulty. Many of the statutes fail to authorize conditional release which would permit supervision of the individual when he reenters the community.

In recent years, advocacy of the elimination or substantial modification of the "sexual psychopath" laws frequently has been advanced. In New York, the Governor vetoed the 1947 bill establishing such procedures. The Michigan Commission proposed recently the repeal of the Act in that state but the Michigan Legislature refused to take that action, although the law was amended. Perhaps especially significant are statutes of the type recently enacted in New Jersey following the recommendations of the New Jersey Commission on the Habitual Sex Offender. The New Jersey law provides that after conviction for certain sex crimes, the defendant shall be committed to the State Diagnostic Center for complete examination. If the requisite findings are made, it becomes the duty of the court to submit the defendant to a program of specialized treatment. Confinement or parole, however, may not exceed the term provided for the crime of which defendant has been convicted. The New Jersey law also makes provision for voluntary commitments.

IV Prevention and Treatment

Since extensive discussions of the problems of prevention of sex crime and sex deviations and the treatment of offenders and deviates have been presented in the reports of committees working in Area V and Area II, this report deals with those problems summarily.

1 See Sutherland, "The Sexual Psychopath Laws" 40 Jour. Crim. Law 543 (1950).

2 Guttmacher, Sex Offenses: The Problem, Causes and Prevention 126 (1951).

See Illinois Legislative Council, Commitment and Release of Sexual Deviates. Pub. 103 (1951).
 See, E. G. Guttmacher, op. cit. 129.

1. <u>Prevention</u>. Effective programs for the prevention of sex crime doubtless involve the cooperative efforts of many scientific disciplines and various social facilities and institutions. The nature of the problem is suggested by recommendation 20 of the Michigan Commission on the Deviated Sex Offender: 5

"In view of the extreme importance of disturbed parent-child relationships in the etiology of sexual deviations, the Commission recommends that a Task-Group, representative of appropriate administrative departments, professional organizations, academic fields, and the general public, be appointed to formulate for early transmittal to the Legislature a plan for an integrated program of clinical treatment, parental counseling, and parental education in the mental hygiene of child-rearing."

The New Jersey Report states: "A most vital part of the work relating to abnormal sexuality should go into a real program of community prophylaxis. Indeed, there is little doubt that any real achievement of our goals depends to a major extent on effective efforts to establish techniques by which the influences promoting sex deviation may be diminished." 7

There is evidence of a general lack of facilities essential to effective preventive programs. Additional mental health clinics are among those needed. More than 1,200 mental health clinics are now in operation in the United States, three-quarters of them partly or entirely devoted to serving children. During 1950, these clinics saw at least 150,000 child patients. More than half the clinics are in the North-east, however. Almost half are located in 106 cities having a population of 100,000 or more. For the United States as a whole, twice as many clinics in relation to population are located in large metropolitan centers as in smaller cities and rural. areas. 8 In the urbanized state of New Jersey, of 141 school administrators responding to a questionnaire, 67 considered that available clinical resources were insufficient to handle cases of sex deviation. 9

Programs for prevention of sexual deviation through education are being developed in other states. The California Legislature in 1949 recommended certain instructions for school personnel and school children regarding sex and sex criminals. It was resolved that the Superintendent of Public Instruction take the necessary measures to disseminate such instructions. Health instruction, which

5 Michigan Report (1951) 13

7 The Habitual Sex Offender (1950) 50.

9 New Jersey Report (1950) 51-52.

⁶ California, Sexual Deviation Research (March, 1952) 63-66.

⁸ Parnell, Cameron and Morton, Mental Health Services for Children in the United States, 1950. Reprint No. 3128 Pub. Health Rep. 1951. 66,1559-1572.

¹⁰ Cf. the critical comments on the program in Guttmacher, op. cit. supra.

to a greater or lesser degree may include sex education, is required by law in 27 states. In addition, 6 states have regulations to the same effect issued by state departments of education. Fifteen states have neither state laws nor regulations on the subject. 1

Essential to programs of prevention are provisions for research into the etiology of sex crime. A number of such research projects currently are being carried on throughout the country; among the more important of these is that sponsored by the California Legislature - \$ 100,000 was made available for research in that state in August, 1950. 2

2. Treatment. This section is devoted to a brief survey of treatment facilities in other states. 3

One of the most striking facts apparent in a survey of institutional treatment facilities is the general absence of specialized institutions or divisions of institutions for the treatment of the sex offender or The lack of such treatment for persons committed under the "sexual psychopath" statutes already has been noted. According to the New Jersey Report: "No state has provided a special psychiatric facility for these cases." 4 Guttmacher states: "There have been few reports on the treatment and progress of those individuals who have been committed under the sexual psychopath acts. Unfortunately, this is a direct reflection of the fact that in the already overburdened facilities to which nearly all of them have been sent little, or to be fully frank, no psychiatric treatment has been available." 5 Frequently advocacy of "sexual psychopath" legislation has been unaccompanied by consideration of or provision for treatment facilities for persons committed under these laws. It appears clear that this condition is descriptive of prisons to which sex offenders regularly are committed. The Michigan Commission asks:"...how many Michigan citizens know that the psychiatric needs of the State's entire prison population, both incarcerated and paroled, are expected to be met by the one psychiatrist of the Department of Corrections?"-6

There is evidence that some of the states are acting in response to the clear need for institutional and outpatient treatment facilities. One of the more significant efforts in this direction is the establishment in New Jersey of the Menlo Park Diagnostic Center which, since 1950, has been carrying on an active program of diagnosis, treatment, and research. A bill recently drafted in Maryland provides that certain types of sex offenders may be committed to a special institution with four integrat-

1 Results of questionnaire in connection with cooperative study by the American School Health Association and the Office of Education (1950)

2 California, Progress Report to the Legislature

(Brown Report) (1951) 107.

3 A readily-available summary of such techniques may be found in Guttmacher, op. cit. supra. Chapter III.

4 The Habitual Sex Offender (1950) 32.

5 Guttmacher, op. cit. supra. at 129.

6 Michigan Report (1951) 12.

ed divisions: (1) a unit for diagnosis and recommendation; (2) a research and active treatment unit; (3) a maximum security unit for dangerous individuals believed not to be promising cases for psychiatric treatment; and (4) a minimum security unit for intellectually defective criminals, who can not adjust in free society. 7

The Michigan Report, among other things, recommends that at least four additional children's psychiatric clinics for outpatient service and a suitable number of adult clinics be established as soon as personnel becomes available. 8

These examples are illustrative of what appears to be an increasing awareness among the states of the inadequacy of existing facilities for the institutional and outpatient treatment of sex offenders and deviates. Much effort will be required before significant progress is made toward the goal of generally adequate staff and facilities for treatment purposes.

PRESENT TRENDS IN CONTINENTAL SEX CRIME LEGISLATION

With regard to deviates who, under criminal laws, - cannot be committed to mental institutions for treatment or "safekeeping", i.e. sexual psychopaths who have not yet violated a statute under which they could be committed, most European states provide in their codes of civil procedure for institutionalization upon affidavit of relatives, "aggrieved persons", the probate courts, etc; but only with psychiatric approval. There are no statutes in the nature of criminal sexual psychopath laws in Europe.

A word should be said about the use of castration. In Europe during the early 1930's, there was a tendency to enact legislation providing for castration of sex offenders. The delicate nature of such a procedure made the problem more frequently a subject of emotional agitation than scientific deliberation. All Germanic (Northern) countries provide for compulsory (or, in the case of the Netherlands, voluntary) castration for certain "dangerous and habitual sex offenders", with or without additional therapeutic treatment, and often in lieu of other remedies (punishment). These countries are Iceland, Greenland, Netherlands, Norway, Switzerland, Germany, Finland and Denmark. Castration receives strong, though not uncritical support. Germany's abolition of compulsory castration in 1945 probably sprang from political considerations. American scientists, who have studies these European methods, however, do not believe in a successful introduction of compulsory castration in the United States.

Efforts to improve the Adjective Law have been made in Denmark, where since 1935 an institution called Hertedvester is in existence. Hertedvester is neither an ordinary prison nor a conventional hospital, but a highly specialized social-psychiatric facility for treatment and training. Commitment is

8 Michigan Report (1951) 12.

⁷ Guttmacher, op. cit. supra at 128.

made under a Section XVII of the Penal Code, which is of benefit to sex offenders. In many other European countries, the law prescribes imputability or partial imputability, and makes jail sentences mandatory but Section XVII leaves it with the discretion of the court to refrain from imposing gunishment, if the experts so recommend.

Homosexuality is no crime in either France or Italy and has not been so considered since the middle of the 19th century. Before the introduction of the German Federal Penal Code (1871), it was no crime in many German principalities. In 1871, it was made a crime in Germany only as regards male relations, but ever since, scientists have advocated the repeal of this provision. During Hitler's regime, however, the penalties were increased. The Ministry of Justice of the East German Republic recently advocated its repeal. The West German judiciary recently had opportunity to declare the crime of (male) homosexuality unconstitutional, as discrimatory of the male sex under the Bonn Constitution, providing for abolition of all discriminatory legislation. The ruling, however, was that the crime of (male) homosexuality does not discriminate in favor of the female sex, taking into account "physical differences" of the sexes. The Austrian Ministry of Justice recently likewise proposed the abolition of the crime of homosexuality in Austria, except if committed by juveniles in the form of prostitution. Homosexual relations against the will of the other partner, through force or intimidation, or by utilization of a relation of dependency, are crimes in all European countries. Homosexual relations with

boys under the age of consent (generally under 21) are a crime in many European countries. There are independent proposals in Germany to lessen the punishment for homosexual prostitution to the level of penalties provided for heterosexual prostitution.

In Austria official proposals are being made to lower the penalty for "rape by fraudulent inducement" to the level of penalties provided for ordinary fraud. Germany recently removed the death penalty, which was discretionary, for rape. The penalty now is penitentiary up to life, as in most other European countries.

The age limit in statutory rape generally is sixteen throughout Europe. Austria proposes to lower the penalties for statutory rape which under the existing code calls for the same punishment as for rape. Also, there are proposals to take the reputation of the victim into consideration in meting out the punishment. In most European countries statutory rape is not prosecuted ex officio, but only upon formal complaint of the victim's guardian. Withdrawal of the complaint is permissable at any time before judgement is rendered.

With respect to all other sex crimes, European countries are as much in disagreement with one another as American state jurisdictions. Penalties vary; acts which are a crime in one country are not crimes in others. There are efforts in all countries toward the removal of punishments for acts which do not endanger the public welfare.

COMPARISON OF STATUTES DEALING WITH COMMITMENT OF "PSYCHOPATHIC" SEX OFFENDERS

		Alabama	Galifornia	California	Illinois	Massachusetts
١		T.15, Art. 4, 434	5500 (amended : 1949, 1950, 1951)	5600 (1951)	C.38, 820 Supplemented, 1947	C. 123A, 1947
T	I. Designation of con- dition	Griminal sexual psycho- pathic person	Sexual psychopath	Mentally abnormal sex	Criminal sexual psy- chopathic person	Psychopathic person- ality
	II. Elements of definition	1. Mental disorder 2. Not mentally ill or feeble-minded so as to make him criminally irresponsible 3. Existing for period of one year 4. Coupled with criminal propensities to commit sex offenses (All 4 elements required)	Predisposition to c ommit sexual of- fense dangerous to others. And any of following: Mental disorder Psychopathic per- sonality Marked departure from normal menta- lity.	1. Not mentally ill or defective 2. Habitual course of sexual misconduct evidencing utter lack of power to control sex impulses 3. Likely to attack or inflict injury, loss, pain or other evil	1. Mental disorder 2. Not insane or feeble minded 3. Existing for a period of 1 year 4. Coupled with criminal propensities toward the commission of sex offenses (All 4 elements required)	Habitual course of misconduct in sexual matters evidencing utter lack of power to control sexual impulses; and Likely to attack or otherwise inflict injury, loss, pain, or evil (Both elements necessary)
	III. Basis of jurisdic- tion	Conviction of criminal sex offense	1. Conviction of any crime(discretionary) 2. Sex offense with child under 14 and previous conviction for sex crime (mandatory)	Petition in superior court	Charge of criminal offense; Detention in state penitentiary	No crime or charge necessary
	IV. Discretion in ini- tiating proceeding	Prosecuting attorney or attorney general	Sex offense (felony) with child under 14 (mandatory)	Parent, spouse, child, or person him- self. Person must consent	Attorney general (discretionary) State's attorney (discretionary) Department of Public Safety (mandatory)	District attorney (discretionary)
	·		Court or prosecuting at- torney Defendant or someone in his behalf			
	V. Tribunal and pro- ceedings 1. Type of court 2. Provision for jury 3. Private hearing 4. Time within which hearing must be held	1. Convicting court 2. No provision for your 3. No provision for private hearing 4. No time set	Gourt of record Jury on demand No provision for private hearing	Proceedings as in case of sexual psychopath	Court of record Jury mandatory No provision for private hearing Hearing 10 days after service of copy of petition	Court of record Jury discretionary with court Private hearing (discretion of court)
	VI. Medical Examina- tion: Qualifications of Examiners	1. Two qualified psychiatrists, reputable licensed physicians who have exclusively limited practice to diagnosis and treatment of mental disorders 2. Concurrence necessary for affirmative finding	1. Two or three psychiatrists, one from state or county hospital. (Holders of physician's and surgeon's certificate whose practice has been directed primarily to diagnosis and treatment of mental and nervous disorders not less than 5 years	Proceedings as in case of sexual psychopath	Two qualified psychia- trists (reputable licens- ed physicians who have exclusively limited practice to mental and nervous disorders for 5 years)	Two duly licensed qualified physicians certified by Department of Mental Health
			 Court not bound by psychiatrist's find- ings 			
	VII. Effect of commit- ment on criminal proceedings	In lieu of sentence, may be required to complete sentence if parole violated	Proceedings sus- pended	Proceeding may not be brought if crimi- nal charge has been made	Postponed till after release, but no de- fense	No defense, but ex- ecution of sentence staved till release
	VIII. Procedure for release	Upon petition to con- victing court by committed person	Superintendent of hospital certifies to committing court person is no longer a menace to health and safety of others	Superintendent of hospital may discharge or grant leave of absence on terms he deems proper	Proceedings initiated by committed person or other interested person	Proceedings initiated by Department of Mental Health or committed person
	IX. Nature of release: whether complete or subject to super- vision	Probation for rea- nable time	If within 30 days of certification the court doesn't order return for criminal proceedings, super- intendent of hospital may parole for not less than 5 years	See VIII	To sheriff to stand trial on original charge	Complete if by court
	X. Cases upholding or interpreting statute		Constitutionality not in issue, but see People v. Haley, 46 Cal. App.2d 386, 67 P.2d 111.		P. v. Sims, 382 III. 472; P. v. Redlich, 402 III. 270: 33 NE 2d 736; P. v. Ross, 407 III. 199 trans. 344 III. App. 407,101 NE 2d 112; P. v. Pignatell 405 III.302, 90 NE 2d 761; P.v. Clymer, 326 III. App. 468, 62 NE 2d 129	

PART II

		Michigan	Minnesota	Missouri	New Jersey	Ohio
		· 1939, amended 1947, 1950, 1952	Sec. 526.0911	9359.2	2:192-1.4 to 2:192-1.12	
Γ	I. Designation of condition	Criminal sexual psy- chopathic person	Psychopathic person- ality	Criminal sexual psyco- path	Sex offender	Psychopathic offender
	II. Elements of definition	1. Mental disorder 2. Not feeble minded 3. Existing for period of one year 4. Coupled with criminal propensities toward the commission of sex offenses (All 4 elements required)	Irresponsible in sexual conduct and dangerous to others by reason of 1. Emotional instability, or 2. Impulsiveness of action; or 3. Lack of customary standards of good judgment; or 4. Failure to under stand consequence of acts; or 5. Combination thereof	1. Montal disorder 2. Not insane or feeble minded 3. Existing for a period of 1 year 4. Coupled with criminal propensities for commission of sex offenses (All 4 elements required	1. Pattern of repotitive compulsive behavior, and either 2. Violence or 3. An age disparity with the victim under 15 and the offender an adult aggressor	Psychopathic personality. a) Emotional immaturity and instability, or b) Impulsive, unruly, irresponsible, and reckless acts; or c) Excessively self-centered attitude; or d) Deficient powers of self discipline; or e) Marked deficiency of moral sense or control, who exhibits criminal tendencies and is therefore a menace to public
	III. Basis of jurisdic- tion	Charge of criminal of- fense	No crime or criminal charge necessary	Criminal charge Knowledge of repu- table person	Conviction of certain specified crimes	Conviction of felony
	IV. Discretion in initi- ating proceeding	County prosecutor Attorney general Party on behalf of person charged (all discretionary) Persons convicted of sex offenses by jus- tice of peace must be certified to circuit cour for proceedings under act. Wardens of prisons similarly required to refer	County attorney (discretionary)	Prosecuting or circuit attorney	The convicting court	Court after conviction {Mandatory in some cases; discretionary in others}
	V. Tribunal and proceedings 1. Type of court 2. Provision for jury 3. Private hearing 4. Time within which hearing must be held	1. Court of record 2. Jury on demand 3. No private hearing 4. Within 15 days after filing and service on accused or counsel of the reports with no- tice of right to jury 1. 3 qualified psychia-	1. Court of record 2. No jury 3. Private hearing (discretion of court) cretion of court)	1. Court of record 2. Jury at judge's discretion or accused's request 3. No private hearing 4. 20 days notice after filing report	The convicting court court upon report from Diagnostic Center	Court of record No jury No private hearing Hearing within 30 days of report
	VI. Medical Examination: Qualifications of Examiners	trists chosen from list of 6 compiled by Department of Public Health. They file re- port open to inspection of accused. Accused re- quired to answer ques- tions under penalties of contempt. 2. Concurrence of panel for affirmative find- ing. 3. Accused may volun- tarily submit for ment, but will not bar conviction.	1. Two duly licensed doctors of medicine 2. (By decision, held: concurrence of doctors not required)	Two qualified physicians. Report filed in court but not made public. Copy to person examined. Concurrence not necessary.	Diagnostic Center Court's action is part of the criminal proceedings. Upon recommendation of Diagnostic Center, court can place offender on provided he receive out patient treatment or committed to an institution for treatment. The commitment order shall	Reference is made to the department, a psychopathic clinic designated by the department or three psychiatrists. They shall make a report to the court which will become part of the public record, a copy to be served on the defendant or attorney
	VII. Effect of commit- ment on criminal proceedings	Defense, but mental dis- order must have exist- ed for 6 months. Ap- plied to misdemeanors and felonies.	No defense, but statute of limitations runs	No defense	not specify a minimum period of detention, but no one confined or pa- roled for time greater than term of crime.	No defense
	VIII. Procedure for release	Party must be examin- ed once a year by 2 psychiatrists who shall write report including evidence of recovery. Reports available to party as evidence in release hearings.	1. Parole by director of public institution; or 2. Proceedings initiat- ed by him or commit- ted person or other interested person	Upon application of com- mitted person to com- mitting court	Parole by State Parole Board upon recommen- dation of classification review board: when maximum time of sen- tence has passed	Proceedings initiated by Commission of Mental Hygiene or person com- mitted
	IX. Nature of release- whether complete or subject to super- vision	Complete if by court	Complete if by court	Probation for a minimum of three years	Parole or complete de- pending on circumstan- ces	To penal institution un- til total period of con- finement equals appli- cable sentence; then re- lease subject to super- vision; ultimately com- plete
	X. Cases upholding or interpreting statute	P.v.Chapman, 301 Mich. 584, In re Kemmerer, 309 Mich. 313, Rowan v. P,147 F2d 138:Kemmerer v.Benson, 165 F 2d 702: P.V. Artinian, 320 Mich. 441; In re Kelmar, 323 Mich.151; P.v.Hullis, 327 Mich.124 In re Boulanger, 295 Mich. 152	Minn. ex rel Pearson v. Probate Court, 287 N.W. 297; 309 U.S. 270 (1940); State ex rel. Jackson v. Willson,230 Minn. 156, 40 N.W. 2d 910; Op. Atty. Gen.248- B-U Oct. 27, 1942			

		Pennsylvania	Virginia	Wisconsin	
		Title 19, 1169	53-278,2	340.485, 351.66 (1951	
	L. Designation of condi- tion	Sex offender	Person convicted or crime indicating sexual abnormality	Sexual psychopath Person convicted of specified crime	
1	I. Elements of definition	Persons convicted of certain crimes and who if: 1. At large constitute a threat of bodily harm to members of the public, or 2. Are habitual offenders and mentally ill	See I	1. Emotional instability, or 2. Impulsiveness of behavior, or 3. Lack of customary standards of good judgment, or 4. Failure to appreciate the consequences of his acts, such as may render him irresponsible for his conduct with respect to sexual matters	
ı	II. Basis of jurisdiction	Conviction of a crime	Conviction of crime indicating sexual abnormality	Conviction of any sex of- fense	
1	V. Discretion in initia- ting proceeding	Court after conviction	Court, Commonwealth's attorney, defendant, counsel, or other person acting for defendant after conviction	Convicting court (man- datory for certain crimes, discretionary in other; when discretion- ary Department of Pub- lic Welfare must accept transmittal)	
_	V. Tribunal and pro- ceedings 1. Type of court 2. Provision for jury 3. Private hearing 4. Time within which hearing must be held	Court of record No jury; no private hear- ing. Hearing on report within 60 days of con- victed unless extended for additional 30 days	Court of record Jury No provision for private hearing	Court of record No jury No private hearing	
	fl. Medical Examina- tion Qualifications of Examiners	1. By facilities of Dept, of Weifare of by a paychiatrist whose report must be accepted by the Department. Report shall be written and include facts and findings, and submitted to court. 2. Convicted person may be temporarily confined during period of paychiatric examination for 60 days, may be extended 30 days	Dept. of Mental Hygiene makes examination and report in writing, report to be available to Gommonwealth's attorney and defendant's attorney. Report to be made by psychiatrist in any state hospital maintained by state.	Dept. of Public Welfare should report to court within 60 days	
v	II. Effect of commit- ment on criminal proceedings	Sentence under act is in lieu of criminal sen- tence and is for indefi- nite term, I day to life	Committed to hospital in lieu of sentence	No defense unless also adjusted insane, See provisions 340,485	
V	III. Procedure for re- lease	Six months after sen- tence, and every six months thereafter pa- role board shall review the case to determine whether parole should be awarded. Convicted per- son may also apply for parole	Same as for any con- victed person committed to a hospital by reason of insanity	Probation subject to out-patient treatment. Paroled on motion of special review board if examinations warrant, or upon petition of convicted person	
1	X. Nature of release - whether complete or subject to super- vision	Parole	See VIII	Subject to suspension if paroled, complete if dis- charged by department, provided no person dis- charged prior to 2 years without consent of con-	
- - '	C. Cases upholding or interpreting statute			victing court. Discharge complete upon expira- tion of maximum term of sentence	

1. General Problem

Sex offenses cannot be considered as isolated phenomena and dealt with as such. On the one hand they are part of criminal offenses in general, and on the other, they reflect, in an exaggerated manner, prevalent sexual attitudes in the community. They are the result as much of cultural socio-psychological dynamics, of personal and emotional maladjustment, as of cultural and social mores, conflicts and tensions. Furthermore, the causes of sexual offenses are not significantly different from the causes of other forms of social maladjustments and deviations. All these factors must be taken into consideration before dealing effectively with the problems of sex offenses on the preventive, therapeutic and legal levels. The public has considered sex offenses primarily a legal problem; that is they have been considered from a legal or forensic point of view, and not in their psychological, sociological or educational implications. Clearly, many sex offenders are so designated only because there are laws defining certain sex acts as offenses. However, when the problem is viewed from its psychological, sociological or educational aspects then the prevention of conduct not acceptable to society is not so simple, particularly since preventive programs can not be formulated without more definite knowledge of causal sequences leading to sex offenses.

Furthermore, it might be well to consider whether sex offenses should require special laws, since part of them belong in the category of disorderly conduct, part are general criminal conduct and part are strictly psychiatric problems.

II. The Problem of Prevention

The problem of sex offenses is related to human conduct as well as to the violations of the law which are committed. Prevention requires more than legal action as one cannot legislate morality. Sex offenses also may be considered as symptoms of a composite of socio-psychological factors; but using this concept of symptom presents the difficulty of answering the question "symptom of what?" Some students point out that prevention requires an explicit formulation of the causal process, that it is not only necessary to know for certain the causal sequence, but that prevention requires some manipulation of the causal elements, an undertaking which is extremely difficult. There are some who believe that the most effective preventive measure is to provide a family and a social background which permits each individual a maximum of security and a real understanding and acceptance of himself.

Preventive measures in this field must take into consideration the social values and cultural factors which stimulate or eliminate sex offenses and crime in general; and prevention may require certain changes in social values with respect to sex behavior. Social values are established in the community; its basic institutions such as the family, the church, and the school influence and reflect

them. Ideally, knowledge and use of social and cultural factors which promote an atmosphere where cooperation and not hostility flourishes may diminish sex offenses and crime in general from our society. Preventive measures also must consider individual personality patterns leading to acts of sexual aggression, and the training methods for children which bring about the development of such personality patterns. Prevention through mental hygiene and educational programs for both adults and children may prove to be effective but the effectiveness of such programs should be checked by follow-up studies, which might give, in time, more factual information concerning the value of such programs for the prevention of sex offenses.

Any program for prevention must take into consideration the various types of sex offenders and sex offenses. The general heading of sex offenses includes acts of completely different significance. both from the legal and causal point of view. The very recognition that we are dealing with divergent problems in the field of sex offenses has preventive significance. Putting all sex offenders into one category and trying to establish one law applicable to all offenders is not only unfair to the offenders, but misleads the public by creating undue anxiety and apprehension in regard to certain types of minor offenses. Offenders can be classified from the standpoint of the offense (a legal point of view), from the standpoint of the offender (a psychological evaluation of the personality involved), or from the standpoint of the group within which the offense takes place (a moral consideration). Then again all offenders or offenses can be classified as to whether they are major or minor in the estimation of the classifier. However, of primary importance are those acts (a) where force or coercion is used. (b) those committed against a child, and (c) those damaging to society.

In considering the classification of sex offenders the Committee agreed that minor sex offenses should be classified as disorderly conduct; that violent offenses involving sex are either part of criminal offenses which should be considered as such rather than sex offenses per se, or are committed by mentally ill persons who may not require legal but medical attention. The Committee also agreed that many minor offenses should be considered as compulsive neuroses which require treatment. It also believes that a cultural tendency to overprotect women and children often leads parents and others following a sexual abuse to actions which are much more detrimental to the welfare of the victim than the offense itself.

In any case, sex offenses range from those that are relatively minor, which do no bodily harm though they may shock or offend the victim and others, to those that do harm to the victim and are dangerous to the welfare of society. Constructive and effective measures of prevention must take into account: (1) the social and cultural factors which stimulate sex offenses; (2) the individual personality patterns leading to acts of sexual aggression; (3) the training

methods for children which bring about the development of such personality patterns; and (4) programs or educating parents, teachers, and other professional and lay groups toward a better understanding of the problem of the sex offender and in the use of such means as are known for preventing any individual from developing into an offender.

III. Factors Involved in a Program of Prevention.

Many factors are involved in a program of prevention. Some place emphasis on sociological factors, others on psychological and educational factors, while some question the validity of any preventive measures as long as the causal relationships are not determined better than they are now. Factors can also be listed as those involving the individual and those involving groups or society as a whole. Probably all the factors can be listed as (1) sociological, (2) psychopathological, or (3) methodological.

Sociological factors include current hedonism; the changes in sex morals which seem to "justify" a general disregard of established mores; the existence of certain social groups with differing sexual codes; the resentment against sexual inhibitions and restrictions in times of increased individual freedom; and changes in the relationships between men and women following the social emancipation of women.

Psychopathological factors are concerned with the personality pattern of the individual. A violent temperament, a defiance against and neglect of order ind regulations, and an emotional impulsiveness are evidences of such factors.

Methodological factors are concerned with the use of appropriate training methods for children. Children of times are inadequately trained to live in a free society. The inability of some parents to rear children in a democratic atmosphere and, at the same time, to observe the conventions of society is a fact that needs consideration. Too often indulgence on the one hand or oppression on the other result in emotional maladjustment that may lead to sexual offense. Methods of educating adults, who deal with children must be considered also.

Prevention through mental hygiene and sex education for both adults and children may prove to be effective. Sex education is more than information about psysiological functions; it must consider the more subtle emotional attitude toward both sexes and their relationship to one another.

IV. Services to be Provided

Services which may help prevent sex offenses are provided by the three basic institutions of society, i.e., the family, the church, and the school. In addition to these, society has other agencies both public and private which may give significant service. They include family service bureaus, welfare and relief agencies, medical, psychiatric, and psychological clinics, protective associations, etc. Such organizations as the Parent-Teacher-Association,

women's federations, and men's clubs can provide means for educating their members in a better understanding of the problem. In general any efforts designed to increase opportunities for children, and adults as well, to adjust themselves to social living are constructive. These might include attempts to secure a more wholesome attitude toward sex education, to correct misconceptions about sex, and to establish counseling services for individuals needing special help. The elimination of unhappiness and insecurity in the home and overcoming guilt feelings and anti-social tendencies have been suggested as possible means of helping a potential sex offender. Other services which specific agencies may render include: the work of social action groups in communities carried on by churches and other organizations, courtship and marriage courses in high schools and colleges, clinical services of all kinds, and family welfare services.

The Committee believes that better provision must be made in teacher training institutions to acquaint prospective teachers with the problem and to prepare teachers better for dealing with all types of personality problems of children. Schools of law, in teaching criminal law particularly, should provide their students with the sociological and psychological background essential to the understanding of the problems of delinquent and criminal behavior, including the problems of sexual delinquency.

V. Legislative Implications

The following suggestions have been made for specific legislative action.

- While this Committee is not concerned primarily with writing a sex offender's law, it can make definite suggestions in regard to it, pointing out what it should not be. It should not refer to sex offenders as one group; but distinguish between the neurotic who commits minor offenses, the severly mentally ill, and the criminal, the victim of social pathology; and make different provisions for dealing with each group. It appears questionable whether any one law regarding sex offenses is advisable, because of its detrimental influence on public emotions. It may be possible that these offenses could be handled adequately within the present laws which prosecute criminals, provide for punishment of disorderly conduct, and permit medical care for the insane or mentally ill.
- (2) The legislature should consider the establishment of psychiatric facilities to make available the treatment of the sexually abnormal who needs treatment, without any commitment of criminal acts, and for those on parole or probation or in penal institutions.
- (3) The state should promote adequate training of teachers in state universities and teacher training institutions in mental hygiene and dynamics of personality development.
- (4) The office of the State Superintendent of Public Instruction should have a division on Adult Education, not only to provide and organize education

of our adult population in regard to proper attitude toward sex problems but also in regard to the difficult problem of rearing children in freedom and with a sense of responsibility.

(5) The legislature should provide funds for continued study of the problem of sex offenses and enlarge it eventually to criminality in general; to

the psychodynamics of criminal behavior; to society's attitude and prejudices regarding criminality; to the efficacy of treatment of convicted offenders; to the methods of education which are effective regarding criminology; to the study of children with reference to their potentiality for criminal behavior in later life. The first step toward this end is the continuation of this Commission.

REPORTS OF THE WORK GROUPS OF THE CONFERENCE ON THE SEX OFFENDER HELD ON SEPTEMBER 25-26, 1952

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CONFERENCE WORK GROUP I

Diagnostic and Extra-Mural Treatment Services

- I. It is recommended that the following considerations be taken into account in future revisions of the Criminal Code pertaining to sex offenses:
 - A. That all new laws relating to sex crimes or amendments to present laws carefully and specifically describe and define the sex offenses to which they apply;
 - B. That such new laws or amendments take cognizance of the fact that the term "sex offender" describes a highly variable and heterogeneous group of persons, with many different types or personal and social problems;
 - C. That sex offenses be separated into categories or classifications of minor and major, or misdemeanor and felony, including indecent exposure and "Peeping Tom" activities under the minor sex offenses, and rape and sexual molestation of minors under the major sex offenses;
 - D. That the charge of statutory rape be eliminated and other more realistic criminal charges be employed in keeping with current professional knowledge and prevailing public conceptions concerning this type of offense.
- II. It is recommended that all persons accused of sex offenses be required by statute to have a socio-psychiatric examination at the pre-sentence level or, if possible, the pre-conviction level.
- III. It is recommended that adequate facilities be made available for carrying out the above proposed diagnostic examinations, and for providing the treatment indicated by the examining teams.
 - A. That the state shall make available to the the court diagnostic teams at such time and place as is required by the court, unless such examination facilities are already provided for by the municipal or county government.
 - B. That use be made of the examining facilities provided by out-patient clinics attached to state hospitals, community, mental health organizations, etc., and that these services be expanded and developed along the lines of the regional program of the Institute of Juvenile Research in the Illinois Department of Public Welfare.
 - C. That a special diagnostic center be created for the examination and treatment of offenders found guilty of felonious sex crimes and subject to commitment to the Illinois State Penitentiary.
- IV. It is recommended that personnel standards and

- qualifications for all persons responsible for diagnosis, treatment and research activities in this field be established by a committee or committees composed of recognized representatives of the appropriate disciplines.
- V. It is recommended that legislative action be taken to provide for a research and education commission to be financed for a period of four years, selection to be made for this commission from among the best available personnel in order that scientific knowledge if this field and public understanding substantially may be increased.
- VI. It is recommended that legislation be enacted requiring that sex offenders be tried only in Courts of Record in order to assure the carrying out of the above recommendations.
- VII. It is recommended that serious consideration be given in future legislation to the desirability of including all criminal offenders in a program in which diagnosis and treatment may be employed as indicated above for sex offenders.

CONFERENCE WORK GROUP II

Institutional and Post-Institutional Treatment Services

- I. It is recommended that there be established within the Department of Public Safety a diagnostic and research center for the professional examination of persons convicted of a felony involving the commission of a sex offense.
 - A. That this center be located within or adjacent to the Chicago area to facilitate the recruitment and maintenance of an adequate and competent professional staff, and to provide for consultation services from nearby universities and medical schools.
 - B. That it shall be mandatory for the Criminal and Circuit Courts of Illinois to commit to this center for pre-sentence examination, for a period not exceeding ninety days, all offenders convicted of felonious sex a cts; and that such commitments shall be permitted at the discretion of the Court following conviction for any non-sex felony when there is a history of the commission of a felonious sex offense, provided, after submission of the history to the Center, the Center certifies that pre-sentence examination by the Diagnostic Center would be appropriate.
 - C. That upon completion of this examination these individuals shall be returned to the Court with a full report of the findings of the examination and recommendations as to appropriate treatment and judicial action.

- D. That provision also should be made at this center for continuous research on all aspects of the diagnosis and treatment of sex offenders.
- E. That the center shall be under the direction of a qualified administrative head; that the diagnostic and research staff shall include specialists in the fields of psychiatry, psychology, sociology, and social work; that a program be instituted for accredited training of graduate students in these fields; and that the quality and size of the staff shall be in accordance with the standards set forth by the relevant national professional organizations.
- F. That a segregated branch of the Illinois State Penitentiary be established in conjunction with this center to receive sex offenders in transfer from other branches of the Illinois State Penitentiary for special study and treatment.

II. It is recommended that the law requiring segregation of Criminal Sexual Psychopaths to the Menard Psychiatric Division of the Illinois State Penitentiary be amended to permit classification and segregation to any branch of the Illinois State Penitentiary.

I. It is recommended that treatment facilities and opportunities in the Illinois State Penitentiary be improved substantially through development of coordinated vocational, educational, and counseling programs, so that the treatment recommendations of the center with reference to sex offenders can be carried out. It is recognized that the achievement of this end necessitates the appropriation of sufficient funds to enlarge and maintain an adequate professional staff, such staff to be recruited in accordance with the standards described in I-E above.

IV. As to release procedure, it is recommended:

- A. That the Diagnostic Center be available for out-patient counseling of sex offenders on parole or probation, in cooperation with the supervisory agency, and that similar use be made of available out-patient mental clinics attached to State and general hospitals.
- B. That all persons convicted of sex offenses and sentenced to institutions should be subject to parole and release procedures applicable to other offenders, and that persons classified as Criminal Sexual Psychopaths should not be unconditionally discharged until after a period of supervision in the free community.

CONFERENCE WORK GROUP III

PREVENTION PROGRAMS

I. Measures that may Contribute to the Prevention of Sex Offenses

Prevention is a complicated process and must be carried out by all institutions of our society. Legislation may improve and coordinate the work of all agencies which can contribute to the prevention of sex offenses.

- A. Preventive measures must take into consideration the social values and cultural factors which stimulate or eliminate sex offenses and crime in general. Psychopathological factors concerned with the personality pattern of an individual, and medical factors concerned with physiological and anatomical conditions, also may have implications in preventive activities. Educational and training techniques used in rearing children to live in our free American democratic society also are important in prevention. Media of mass communication should be included in programs designed to help prevent sex offenses.
- B. There is a need for the coordination of the many state agencies now commissioned to work with children, adolescents and adults. Increased support would be given to existing efforts to coordinate educational activities designed among other things to provide and organize educational efforts in regard to proper attitudes toward sex problems and in regard to the difficult problem of rearing children in freedom and with a sense of responsibility.
- C. The State should promote adequate training of teachers in state universities and teacher training institutions in mental hygiene and in the dynamics of personality structure. It also should be concerned with improving the selection and recruitment of teachers.
- D. For the sake of public welfare and through public and private agencies emphasis should be given to the establishment of psychiatric facilities, so that the treatment for the sexually abnormal, for those who have not committed any criminal acts as well as for those on probation, in penal institutions, or on parole, would be more readily available. In addition, diagnostic centers which have been or may be established to work with sex offenders should carry on educational programs designed to help prevent sex offenses.

II. Need for continued Study

A. Because of the many variables and undiscovered facts about sexual offenders, a research commission should be set up to study those cases which come to the courts, and to determine the best treatment, and the best procedures, to safeguard the interests of the individual and society.

B. The legislature should provide adequate funds for a complete study of the total problem of sex transgressions and enlarge it eventually to criminality in general; to the psychodynamics of criminal behavior; to society's attitude and prejudices regarding criminality; to the efficacy of treatment of convicted offenders; to the detrimental effects of segregated incarceration which stimulates deviant sexual behavior; to the methods of education which are effective in preventing the development of criminal tendencies; to the study of children with reference to criminal behavior in later life.

CONFERENCE WORK GROUP IV

LEGAL FRAMEWORK FOR SEX OFFENDER LAWS

I. General Considerations

- A. The legal system must continue to play a significant role in dealing with the problem of sex offenders. But these problems are not the exclusive concern of the legal system. The home, the schools, churches, and other social institutions have significant duties and obligations in this area. The legal system can not perform the legitimate obligations of the other social institutions. Attempts to place such obligations on the legal system only result in preventing the legal system from effectively performing its proper and legitimate functions.
- B. The object to be attained by the legal system in dealing with the sex offender is the protection of society. Protection of society includes not only protection of the interests of the community as a whole, but also the protection of the individual rights of its members as well.
- C. Consequently, legislation dealing with the problems of sexual misconduct should be concerned with protection of society and the rehabilitation of the sex offender. In the area of sexual conduct, the primary dangers from which society requires protection are 1) conduct involving the use of force, and 2) conduct involving a substantial age disparity between offender and his victim. Experience has demonstrated that certain kinds of sexual conduct, while socially distasteful, are not socially dangerous. Efforts on the part of the legal system to suppress such conduct generally have failed. Saddling the legal system with obligations it can not successfully perform impairs the effectiveness of the legal system in performing its vital and legitimate functions.

II. The Substantive Offenses

A. The provisions of the Illinois Criminal Code dealing with sex crimes are deficient in that they fail adequately to distinguish between socially distasteful and socially

- dangerous sex conduct. The consequence is that many of the provisions provide opportunities for serious injustices and many are largely unenforceable.
- B. The provisions relating to "statutory rape" require amendment. As these provisions presently stand they fail to distinguish adequately the greater from the less dangerous conduct, and provide opportunities for extortion and injustice. It is recommended that at least for the first offense, a male defendant under the age of 21 shall not be found guilty of the felony of rape, when the element of force is not present, and the female not below the age of 14 years, but shall be deemed guilty of a misdemeanor. If not incarcerated, the defendant should be placed under supervision on probation. In case of subsequent offenses by such younger defendants, greater penalties should be provided. Provision should be enacted to protect defendants in situations in which the female involved is married, a prostitute, or promiscuous.
- C. Punishments for homosexual acts should be modified to discriminate between socially distasteful and socially dangerous conduct. The greater penalties should be reserved for violent and aggressive acts committed without the consent of the victim. A further distinction should be drawn between voluntary homosexual acts committed in public places, so as to constitute a public nuisance, and those committed in private. The former should be punished as a misdemeanor, at least for the first offense. Penalties should be provided for the latter acts where a substantial age disparity exists between the offender and his victim.

III. The Sexual Psychopath Statutes

- A. There are grounds for serious doubts as to the efficacy of legislation of the sort represented by the Illinois Sexual Psychopath Act of 1938. These doubts are based on the difficulties of establishing clear criteria for identifying those to be committed under the Act, the problems of procedural fairness to those proceded against, the problems of the constitutional privilege against self-incrimination, and the difficulties of uniform application and enforcement of the statutes. If the present statute is not to be replaced, however, a number of amendments clearly are required.
- B. The 1938 Act should be amended to provide that commitment under the Act shall be a defense to criminal proceedings on the criminal charge which formed the basis of the commitment.
- C. Provisions authorizing the equivalent of probation and parole for persons committed under the 1938 Act should be added.

- D. In the interests of uniform interpretation and application of the 1938 Act, provision for direct appellate review of orders of commitment should be provided.
- E. Inasmuch as the present provisions of the 1938 Act place responsibility for care and treatment in the Department of Public Safety, the statute should be amended by deletion of the Illinois Security Hospital as the place of commitment, inasmuch as the hospital is not under the direct control of the Department of Public Safety.
- F. Any communication made by any party proceeded against under the 1938 Act during the course of an interview with court-appointed psychiatrists should be deemed a privileged communication.
- G. The present provisions of the 1938 Act requiring a jury trial should be modified to permit the party proceeded against to waive the jury. In such cases, a commission composed of psychiatrists should be appointed to recommend to the trial judge the manner of disposition of the petition.
- H. We direct the attention of the Legislature to the language of the 1938 Act which characterizes individuals subject to commitment under the Act. It frequently has been suggested that the phrase "criminal sexual psychopathic person" is inappropriate for the purpose. The term "criminal" confuses legal with scientific terminology. The term "psychopath" is confusing to the layman, and contains a wide range of meanings for the psychiatric specialists. We suggest consideration of the following observations:
 - 1. Some label such as "sexually dangerous person" should be substituted.
 - 2. The criteria for identification of such persons should reflect the existence of a mental disorder or personality disturbance for a period of at least one year, together with a pattern of compulsive behavior with propensities for socially dangerous sex conduct in the form either of acts of aggression or molestation of children, accompanied by substantial age disparities.

IV. New Legislation

A. Fundamental progress toward intelligent handling of the problems of the sex offender by the legal system in Illinois can not be made solely on the basis of present legislation, however modified or amended. Consequently, we recommend a legislative

program containing the following points:

- 1. There should be created a central diagnostic center adequately staffed and equipped to classify sex offenders committed to it, and to develop and apply techniques of treatment where possible.
- 2. Defendants convicted of designated offenses mandatorily should be committed to the diagnostic center, prior to sentence, for diagnosis and classification for a period up to 90 days. The designated offenses for mandatory committal should include only forcible rape, aggressive homosexuality, and sexual molestation of children. However, on petition of the State's Attorney, or on request of the trial judge, defendants convicted of other crimes should be admitted, upon certification by the diagnostic center that facilities are available and adequate.
- 3. Upon completion of its diagnosis, the administrator of the center should have power to recommend the following methods of treatment to the sentencing court: probation, probation upon condition that the offender submit himself to out-patient treatment, commitment for an extended period to a non-penal treatment facility, commitment to the prison system according to the provisions of the criminal code. Adequate authority should be granted to the trial court to dispose of cases in accordance with the recommendations of the center.
- 4. Suitable provision should be made for voluntary commitment to the diagnostic center where facilities are available and adequate.
- B. The above program can be justified on the following grounds:
 - 1. The procedural safeguards of the criminal trial are retained.
 - 2. The problem of the privilege against self-incrimination is minimized.
 - 3. More adequate methods of separating the mentally disturbed from the situational offender can be provided.
 - 4. The center can be employed as a center for research and experimentation from which new knowledge may be obtained which may be useful intreatment.
 - 5. Such a program may contribute to education of favorable public attitudes.

I. ABSTRACT of the Chicago Public Hearing held on November 29-30, 1951 at the Conrad Hilton Hotel.

The Illinois Sex Offenders Commission held public hearings in Chicago, Peoria and Springfield. The first such hearing was held in Chicago and the following appeared as witnesses: Mr. Austin Wyman, Chairman of the Board, Chicago Crime Commission; Mr. Joseph D. Lohman, formerly Chairman, Illinois Parole and Pardon Board; Dr. Edward J. Kelleher, Director, Psychiatric Institute of the Municipal Court, Chicago; Mr. Erwin Roemer, former president, Chicago Bar Association; Dr. Warren Brown, Professor of Psychiatry at Baylor University; Dr. Leonard F. Browne, Psychiatrist of London, England; Dr. Frank Tallman, California State Commissioner of Mental Hygiene: Dr. George S. Stevenson Medical Director, National Committee for Mental Hygiene; Dr. Walter Baer, formerly Deputy Director, Illinois Department of Public Welfare; Dr. William Menninger of Topeka, Kansas; Mr. Joseph E. Ragen, Warden, Stateville-Joliet Divisions, Illinois State Penitentiary.

There was considerable unanimity in the comments made by the experts who testified at this hearing; for example, the following ideas were expressed repeatedly:

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- The individualistic nature of sex offenders (there is no typical sex offender) makes generalization about them impossible;
- (2) Minor offenders should be distinguished from more serious offenders;
- Pre-trial clinic team examinations of accused sex offenders should be mandatory;
- (4) A greater use should be made of indeterminate sentences;
- (5) Penitentiaries, presently, are not effective in treating sex offenders;
- (6) The responsibility for prevention must be shared by all social institutions including the Family, the Church and the School;
- (7) Intensive research on the problem and extensive education of the public are basic needs.

In addition to these fundamental ideas rather universally advanced by those appearing before the Commission, certain specific thoughts were voiced by particular individuals. One witness pointed out that although the Illinois Criminal Sexual Psychopathic Act (para. 820-825 inclusive, Chap. 38, Illinois Revised Statutes) was approved on 6 July 1938, it was not until the first of May 1946 that the Act was invoked and a person tried under its provisions. Since then, according to testimony presented, 22 individuals have been charged and convicted under its statutes, as criminal sexual psychopaths. This might raise the question, in view of the 100 per-

cent conviction rate, might not there have been others who should have been tried under this Act?.

Witnesses testified that oftimes it is difficult to to get convictions under existing statutes because (1) parents of small children frequently are unwilling to prosecute for to do so may bring undesirable publicity to the family and (2) the existing law requires the actual commission of a criminal act before a person can be charged under the law. In this connection, one witness suggested that a "tendency factor" might prove to be superior to an overt act requirement. Several experts suggested that before any criminal sexual psychopath law can be implemented adequately, the medical examiners, the court and the prosecuting agencies will need to come to an agreement on basic principles. A witness for the Chicago Crime Commission, a lawyer, suggested, however, that we should want a more strict adherence to our existing statutes, rather than new ones. The present Illinois law would be adequate if given more strict enforcement, he claimed, and he advanced as the reason that the present law is used in a limited manner is because of an inadequacy of treatment facilities.

The Warden of the Stateville-Joliet branches of the Illinois State Penitentiary discussed sex offenders in his custody, reporting that there are 375 men under his jurisdiction charged with sex crimes but that out of a total inmate population of approximately 4,200 men only 27 have been known to commit sexually deviant behavior within the prison community. The Warden stated that there is a great need for a wider spread between the minimum and the maximum of sentences imposed by committing courts if sex offenders are to be adequately prepared for their ultimate return to free society. Difficult problems of administration are created by the frequent conviction of sex offenders on related charges when no indication is given to the prison or parole authorities that sexual deviations have been involved in the commission of the crime, this well-known penologist concluded.

A former Chairman of the Illinois Parole and Pardon Board, a sociologist, testified that sex offenders committed to prisons are not a homogeneous group; that the generalization that "sex offenders are sick persons" is subject to reservation; that one difficulty in establishing an efficacious treatment program accrues because there is no absolutely defined difference established as between one type of sex offender and another; that although the limitations of our present knowledge must be recognized, smaller, more specialized institutions are needed; that there is a need to provide treatment at the county jail level as well as within penitentiaries, reformatories and correctional schools; and finally that paroled sex offenders have a noticeably low rate of recidivism.

The Director of the Psychiatric Institute of the Municipal Court, Chicago, reported on a two year study of 1,326 cases examined in his clinic. His report showed that of those seen less than one-half of one percent were classified as criminal sexual psychopaths. Of the total number studied, 13%

were psychotic; 6% were feeble-minded; 34% had neurotic disturbances. Forty-five percent, or 595 of the 1,326 were returned to court with no psychiatric diagnosis offered. This witness, a psychiatrist, suggested that many sex offenders might be treated with psychotherapy a condition of probation and without institutionalization. He concluded by stating; (1) that the diagnostic category, "criminal sexual psychopath," is not clear, having no generally accepted connotation among medical authorities; (2) that many of the problems encountered in dealing with sex offenders are common to other criminals; (3) that in contemplating laws which attempt to anticipate illicit behavior, the constitutional rights of the individual must be safeguarded, and (4) many are not amenable to castration, endocrine-feeding, lobotomy and other similar techniques of treatment, procedures which have been suggested panaceas.

Additional attitudes expressed included the following:

- (1) Hasty and ill-advised legislation often follows publicity devoted to the rather rare incedents of serious sex crimes;
- (2) The sensational treatment of sex offenses in the press is to be criticized;
- (3) Increasing the severity of the laws is not effective in controlling sex offenses, according to available evidence;
- (4) Aggressive and dangerous sex assaults are less common than other prevalent types of felonious crimes;
- (5) In Illinois, treatment facilities for sex offenders are inadequate;
- (6) Certain sex offenders are beyond treatment and must be segregated permanently for the protection of society.
 - II. ABSTRACT of the Peoria Public Hearing held on 21 May 1952 at the Y.W.C.A.

Approximately one-half of the hundred people invited from Peoria and its environs attended the second public hearing conducted by the Commission. Testimony was taken from among others, the following: Lt. S.A. Mitchell of the Peoria Police Department; Michael Shore, Peoria County State's Attorney; Mrs. Donna Simms of the Juvenile Bureau; Edward Linzer, Executive Secretary, Peoria Mental Hygiene Society; County Judge Francis Vonachen; Dr. Alden Raisbeck, Peoria State Hospital; Robert Manshot, Visiting Counsellor in the city schools; Miss Janet Langford, Juvenile Probation Officer; the Reverend Gordon Gillett, President of the Peoria Mental Health Society; Professor Clarence Schroeder, Department of Sociology, Bradley University; Max Hayes, County Superintendent of the Illinois Public Aid Commission; Miss Lottie Mathison, Public Health Department; the Very Reverend Monsignor Gill Middleton, Director Catholic Social Service Bureau; Paul Kliger, psychiatric social worker and W. C. Van Lanningham, Regional Representative of the State Department of Public Welfare; Katherine Long, medical social worker; Robert S. Calkins, Assistant States Attorney and Thelma Watt, Chief Nurse of the Peoria State Hospital.

Highlights of the testimony presented can be summarized as follows:

- (1) Some amendment or reform seems necessary so far as the impractical statutory rape law is concerned. We have other laws (contributing to delinquency, etc.) under which a severe problem of this nature could be handled.
- (2) The first problem with the existing Criminal Sexual Psychopathic Act, is that a person does not have to submit, voluntarily, to examination. He may claim his constitutional privilege and say he doesn't want to give evidence against himself.
- (3) Experience has shown that the ineffectiveness of present laws cannot be remedied by adding new ones. Legislation in itself will not cure anything. The best way to meet the problem is to firmly stress the importance of community responsibility.
- (4) The major concern should not be the sex offense itself but rather the tendency of the offender to do harm to others. We do not need a law for sex offenders as much as we need to make sure that we have some provision whereby society is protected from an invasion of person and property.
- (5) As the present Bastardy Act is unjust, it appears to stand in need of amendment.
- (6) The "Peeping Tom" or the exhibitionist, never progresses beyond that stage so there would be little danger of the "Peeping Tom" or exhibitionist becoming a rapist.
- (7) Any person who is convicted of a sex crime should be examined by a psychiatric clinic team before being sentenced. A psychiatrist alone cannot do the job. He needs the clinical psychologist, social worker, etc..
- (8) There are many kinds of sex offenders needing different types of treatment. Certain offenders are treatable on an out-patient basis; others require institutionalization. Treatment should suit the offender's treatability.
- (9) Professional attention should be afforded the victims of sex assaults and they should be spared publicity. "Be just as concerned about the person who is attacked as the attacker. As much damage can be done to the child or to the woman or to the young boy by the investigating process as can be done to the alleged accused," one witness testified.
- (10) Specially trained officers are needed to conduct the investigation of sex crimes for the police and States Attorney's Office.

- (11) The State Legislature should consider the creation of a literary commission for the censorship, with due regard for the freedom of the press, of lewd and indecent literature.
- (12) All crimes involving sex offenses should be tried in courts of record.
- (13) Considerable further research is needed.
 - III. ABSTRACT of the Springfield Public Hearing held on 24 June 1952 in the assembly room of the Red Feather Building.

The suggestions made by the seventeen individuals testifying before the Illinois Sex Offenders Commission at the Springfield Public Hearing can be placed into three categories: (A) Attitudes and Special Concerns about Sex Offenders, (B) Essentials of Legislation on Sex Problems, and (C) Recommendations for the Social Control, Treatment and Rehabilitation of Sex Offenders.

An analysis of the recorded testimony and written abstracts of opinion submitted by the witnesses shows a remarkable consensus as to basic philosophy; i.e. "we should desire to understand and reeducate rather than to punish". One witness suggested that our basic attitudes toward the sex offender should be similar to those we hold toward the drug addict. A number of persons voiced like attitudes and these can best be summed up in the fords of one witness who said, "Each sex offender just be handled as an individual problem". This attitude was variously expressed by others as follows: "there is a need for adequately differentiating types of sex offenders inasmuch as each such offender needs to be handled as an individual problem because all sex deviates are not necessarily suffering from psychotic disorders. Neurotic and psychotic factors have become shibboleths of everything under the sun including all sex offenses. All sex offenses cannot be attributed to these factors";"there has been an over-emphasis on psychopathic personality as 'sine quo non' in sex offenses and this provides the very basis for justification and possible defense for the offender"; "relatively little concern should be given to prosecuting the minor deviate who limits his activities to other adults", and "there is a need to deal more drastically with the offender who victimizes children".

Other conclusions were:

- (1) "there is a need for a variety of attitudes as there is a variety of sex deviates";
- (2) "a sex offense is only an accompanying part of another offense";
- (3) "long prison terms are not an answer to the problem of the sex offender";
- (4) "socio-economic factors are important in the etiology of sex offenses and the etiological factors operating may not be within the control of the person".

The Springfield witnesses showed further agreement in the realm of essentials of sex legislation. Generally, they seemed to think that all forms of sex behavior are related to the needs of the individual but that aggressive or compulsive sexual behavior calls for public suppression and individualized treatment. They believed that certain of our present laws as they relate to the problems of statutory rape, adult homosexuality and bastardy should be revised to shift attention from a preoccupation with legality as such irregular behavior may not be socially harmful. The witnesses believed that experience has shown that the existing legal framework which sets fines and provides jail sentences for individuals guilty of committing minor sex offenses has not been demonstrated to be a successful approach as it neither deters nor treats.

According to those who discussed this facet of the problem, indispensable provisions in any sex legislation are these:

- (1) "standardization of sentences for similar types of offenses";
- (2) "clear formulation of the concept" criminal sexual psychopath" and all other concepts such as "psychopathic personality", "incarceration until cured", etc; used in sex psychopathic laws or drop such statutes";
- (3) "provide for the parole, under close supervision, of sex offenders".

In addition to these rather broad recommendations, certain specific suggestions, which in order to be implemented would require legal changes, included:

- (1) "an offender should not be labled a criminal sex psychopath by any two physicians but by experienced psychiatrists";
- (2) "diagnosing a man who has completed a prison term for a sex offense as a criminal sexual psychopath and then sentencing him to the Illinois Security Hospital is unjustified and, in effect, is requiring the man to serve two sentences for the same offense";
- (3) "designate appropriate facilities in our existing institutions for the treatment and rehabilitation of sex offenders."
- (4) "if imposing a sentence is a necessary part of the laws, then the sentences should be absolutely indeterminate, that is, there should be no minimum or maximum limits."

In conclusion, it was suggested that there need be realism in framing any law aimed at protecting society but, at the same time, care need be taken against those who flaunt accepted behavior standards and then rely upon legal provisions as a means of escaping punishment by being diagnosed as mentally

In the area of social control, treatment and rehabilitation of sex offenders, more generalized and fewer detailed recommendations were made. The thought was expressed several times, however, that it would be difficult to institute non-legalistic means of social control "until the general public was educated regarding this problem"; and until we had "more specialized knowledge in the social and behavioural sciences." Informal social control accrues, it was stated, as a result only of educational methods and programs involving:

- (1) "minimizing the publicity given to sex crimes";
- (2) "insisting upon competent, well-staffed police departments";
- (3) "establishing mental hygiene programs within various social, recreational, religious and educational groups"-- programs aimed toward developing "community acceptance of the need for early diagnosis and treatment";
- (4) "educating legal, judicial, and law enforcement groups in the field of mental hygiene and etiology of sex offenses".

Some formal control would, several witnesses observed, result from an enforcement of existing social welfare laws on housing, sanitation, working hours and conditions, child care, etc.

Before treatment and rehabilitation programs could be effective, it was concluded, there exists the need to develop "better concepts of what treatment and prevention consist of". There are, however, some changes which could be instituted immediately as our experience has demonstrated their validity; these include: (1)"the referral of all individuals involved in sex offenses to a diagnostic clinic before the court hearing"; (2) "the establishment of facilities at the local level for the clinical diagnosis of sex offenders"; (3) the making as "mandatory the pre-sentence investigation of all sex offenders by a clinic team of examiners".

In summary, it was concluded that treatment must be individualized so that mentally abnormal sex deviates would be committed, studied and, if possible, treated while in the cases of the mentally "normal" sex offenders, the emphasis would be on study and rehabilitation rather than upon sentencing.

SENATE BILL NO. 750

A BILL

For an Act creating the Commission on Sex Offenders and making an appropriation therefor.

Be it enacted by the People of the State of Illinois, represented in the General Assembly:

Section 1. The Commission on Sex Offenders is created. The Commission shall consist of five members of the Senate appointed by the President pro tempore thereof and five members of the House of Representatives appointed by the Speaker thereof. The Commission shall select a chairman from among its membership and may employ such professional, technical, clerical and other assistants, without regard to civil service, as it deems necessary to carry out its duties.

Section 2. The Commission shall:

- 2 (a) analyze and coordinate the results of the studies of similar commis-3 sions appointed by other states;
- 4 (b) arrange for the scientific determination of the factors which contribute
- 5 to the making of a sexually dangerous person;
- 6 (c) determine whether the problem of sexually dangerous persons should
- 7 be the subject of legislation, and, if so, the kind of legislation which is most 8 desirable;
- 9 (d) establish, with the cooperation of experts, a proper definition of the
- 10 sex deviate and sex psychopath; 11 (e) determine the best methods for the apprehension, prevention, treat-
- 12 ment, and cure of such persons;
- 13 (f) recommend any new types of facilities or the modification of existing
- 14 avenues of treatment; and
- 15 (g) make a report, including any recommendations for legislation, to the 16 Sixty-eighth General Assembly on or before March 1, 1953.
- Section 3. The sum of \$7,500.00, or so much thereof as may be 2 necessary, is appropriated to the Commission, for the purpose of carrying out 3 the provisions of this Act.

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