

# State Study Fails to Bring Up Answer

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Something should be done about the habitual sex offender, the sexual psychopath, but just what that something is has experts the country over stumped or, at best, hesitant about suggesting remedies in a field confused by moral issues and disagreement on diagnosis and therapy.

Such is the picture presented by Dr. Paul W. Tappan of Leona, technical adviser to the New Jersey Commission for Study of the Habitual Sex Offender. The group is due to advise the Legislature in February what action to take in this field and has just wound up a series of conferences in Atlantic City and Newark with medical, enforcement and judicial leaders.

In addition to local opinion obtained at the conferences, Essex Probation Officer Murphy, chairman of the commission received reports from Dr. Tappan on wide-ranging field studies made this Summer. Dr. Tappan, a New York University law and sociology professor, visited states which have passed laws in this field and his accounts of the working of such statutes provide a practical basis for judging the various procedures.

## No Clear Path

From the standpoint of everything published on the subject so far, Dr. Tappan says, one conclusion towers over all others:

That the nature of sexual psychopathy, what to do in treating it and what laws will best curb its criminal expressions are "realms still unexplored for the most part."

Reviewing a lack of agreement among psychiatrists about the nature of sexual psychopathy, Dr. Tappan declares it is "difficult and dangerous" to try to set up a new status of psychological abnormality founded merely on distinctions in degree of variation from normal in sexuality or aggression.

"In an age that spawns masses of egocentric, insecure and rigid character structures and that tolerates widely elastic standards of sex behavior, it is no easy task," Dr. Tappan said, "to distinguish the dangerous psychopaths who need treatment save by their commission of specific criminal acts, obviously vicious enough to require state intervention and efforts to modify their character and conduct."

## Laws Rarely Used

State intervention, in the form of statutes, has been taken in 13 states, Dr. Tappan reports, but adds significantly that the new laws are "almost completely inoperative or used only rarely."

New Jersey, under its law passed last April providing for mental examination of certain convicted sex offenders, already is handling more cases than other states, Dr. Tappan says, where the average is between one and five a year.

This disuse derives not mainly from a reluctance to try new ways of handling the problem, Dr. Tappan says, but chiefly from vague definitions of sexual psychopathy in the laws. Prosecutors and judges just aren't sure what cases to route through the new path, and psychiatrists, he says, are chary of going out on a limb by diagnosing accused as sexual psychopaths.

## Inadequate Facilities

The final deterrent cited is that none of the states have specific facilities for custody and treatment.

Where those diagnosed as habitual sex deviants are sent to existing mental hospitals, Dr. Tappan declares, it is noteworthy that the majority have committed offenses of the nuisance, rather than menace, type.

Even though not widely used, statutes of other states are being carefully scrutinized by the commission. Roughly, they fall into three categories. The commonest provides for a mandatory investigation in certain sex offense cases and for a commitment to a mental institution before conviction if the diagnosis is sexual psychopathy.

The second general type of law does not require a criminal act at all but bases a finding of sexual psychopathy on information provided to the prosecutor and deemed enough to justify an inquiry. Following diagnosis, the accused may be committed to a mental institution.

## Action Questioned

This procedure has been questioned as abrogating an individual's civil rights and has, at the same time, been defended as providing protection to society through the application of civil law as it has long operated in the field of juvenile delinquency and insanity.

A third approach substitutes for the broad "sexual psychopath" term specific characteristics on which diagnoses should be found. Illinois, Dr. Tappan says, has come closest to this sort of solution but the criteria even there are quite "loose" pending evolution of acceptable working definitions.

A fourth solution, as yet untried, would offer facilities for voluntary commitment for treatment of individuals aware of "dangerous peculiarities" in their sexual or aggressive strivings, but Dr. Tappan notes that most psychiatrists probably would not look on such people as psychopaths at all but rather as neurotics, some of them merely seeking punishment.

## Definition Missing

Each type of approach, Dr. Tappan declares, has its severe critics, all of whom have a common complaint: lack of precise definition of the nature of the disorder and of the more general issue of what problem is being attacked.

As a result of the limitation "in our knowledge and tools", Dr. Tappan suggests that "for the present the state cannot afford as a matter of policy to go beyond attempting to improve its treatment of individuals who are arrested for specific, enumerated criminal acts."

Some practical work might be done by extending preventive treatment to those who submit themselves voluntarily, he says, and by intensifying work among excessively aggressive or submissive children, but beyond that New Jersey's law represents, in his view, "the most reasonable formula for providing treatment to those who most clearly need it."