

Federal Probation

Did He Do It? If So, How Shall He Be Managed? *Dale C. Cameron, M.D.*

Work Release and the Misdemeanant *Stanley E. Grupp*

How Delinquent Children Think and Feel *E. Preston Sharp*
Ellis S. Grayson

The School in the Detention Home Should Be
a Part of the Public School System *Ralph C. Norris*

Let's "Sell" Corrections: A Straight
Talk to Probation Officers *Charles L. Newman*

Drinking and Crime *Howard T. Blane*

The Alcoholic and the Jail *Earl Rubington*

Capital Punishment *Arthur O'Halloran*

Conjugal Visiting at the Mississippi State Penitentiary *Columbus B. Hopper*

A Halfway House for Parolees *Robert G. Meiners*

Treated Sex Offenders Who Reverted to
Sexually Deviant Behavior *Louise Viets Frisbie*

JUNE 1965

It would seem that the best possible operation of a halfway house would include a private dwelling with a permanent resident director, available for consultation at any time. A charge should be made for room and board if for no other reason than to give the individual a feeling of dignity and prevent his feeling like a charity case. This charge could, however, be deferred until the individual is gainfully employed. Active job counselling and placement should also be part of the program.

Every effort should be made to avoid an institutional atmosphere. In this regard, organized meetings at which attendance is mandatory should be avoided entirely or kept to a minimum. Also, rules should be minimal and clearly explained. For example, as a practical matter, alcoholic beverages would probably be banned from the premises as a requirement of the parole board. If it is felt that a "lock-out" time is de-

¹⁹ Judge J. Skelly Wright, speaking in *Bates v. Rivers*, 323 F. 2d 311, 315 (1963).

²⁰ 20th Annual Statistical Report (1963). Pennsylvania Parole Board.

²¹ Judge George Edwards, quoted in Palmore, "Sentencing and Correction: The Black Sheep of Criminal Law," *FEDERAL PROBATION*, December 1962.

sirable (St. Joseph's House, in theory at least, does have one), it should be realistic.

And finally, the community should be made aware that they also have an obligation. Society's obligation should not end when a man is placed behind bars, but should continue until he is successfully rehabilitated into a useful member of the community. If for no other reason, economic self-interest would demand this. As a federal judge has stated recently: "Parole . . . is a far cheaper method of custody than physical incarceration."¹⁹ And in Pennsylvania, for example, it costs the taxpayers \$1,927 to keep a man in prison for 1 year. It costs only \$234 to supervise him for a year on parole.²⁰ The investment in human lives, however, would seem to be far more important. As one commentator has said: "Our chief concern, however, is not with dollars and cents but with the prevention of crime and the saving of human lives."²¹

Halfway houses are not panaceas. They have had their failures and will, in all probability, continue to have their failures. It seems to me, however, that their failures are far outshadowed by their successes.

Treated Sex Offenders Who Reverted to Sexually Deviant Behavior

BY LOUISE VIETS FRISBIE

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THE DIRECTION of newspaper publicity about state institutions for criminal offenders, especially sex offenders, is often negatively oriented. The accounts of escapes, serious incidents, overcrowding, and alleged "moral decadence" of these offenders are prone to be reported with varying degrees of sensationalism, inaccuracy and subjective interpretation. Hence it is important that the public be factually informed about the California legal framework for processing sex offenders and the kind of sex offenders committed to Atascadero State Hospital. With a more thorough understanding of the problems in-

involved, and an awareness of the results of hospital treatment, the public can offer knowledgeable support to administrators of programs directed toward rehabilitation, re-education, and re-socialization of convicted sex offenders.

The California Program

California's concern about sex offenders was translated in 1939 into the Welfare and Institutions Code as a sexual psychopathy law, one of the first such laws in the United States. No major statutory changes were made until 1949 when a civil procedure in a Superior Court became mandatory in certain types of cases after a conviction or plea of guilty for a sex crime involving a child under 14. A legal term, "sexual psychopath," was

The research on which this paper was based was supported in part by the California State Department of Mental Hygiene, Research Project No. 62-17-13.—*The Author.*

applied to the sex offender who during a 90-day observation commitment was determined clinically (1) to be predisposed to committing sex offenses and, (2) to be a menace to the health and safety of others. If the person was considered to be amenable to treatment in a state hospital, he was then recommitted by the court for an indeterminate period. When, in the opinion of the superintendent, the treated "sexual psychopath" was considered to be no longer a menace to society, he was returned to the committing court, criminal proceedings were resumed, and he was sentenced for his crime or awarded probation.

Since June 1954, Atascadero State Hospital has been the one hospital within the Department of Mental Hygiene to administer the sexual psychopathy program.

From 1949 to 1963 there were only minor modifications of the statute. Then in 1963 the legislature enacted four major changes in the sexual psychopathy law¹: (1) *Nomenclature*: (a) "Mentally-Disordered Sex Offender," replaced "Sexual Psychopath"; (b) "danger" [to the health and safety of others] replaced "menace." (2) *Eligibility for probation*: This status as defined in the Penal Code became mandatory. (3) *Court-appointed examining psychiatrists*: Reports were required to include an opinion whether the person would benefit by care and treatment in a state hospital. (4) *Sentencing on a criminal charge*: Credit was allowed for time spent under indeterminate commitment as a mentally disordered sex offender in fixing term of sentence.

Atascadero State Hospital Research

To investigate the extent of recidivism among treated patients discharged from Atascadero State Hospital, the Department of Mental Hygiene supported a research project. The data in the final report are consistent with the terms of the statute operant through 1960.² A progress report about the early posthospital adjustment of the first 782 dischargees was published in FEDERAL PROBATION in 1958.³

The sample included 1,921 males each committed by a Superior Court as a "probable sexual psychopath" for observation, subsequently recommitted for indeterminate treatment, and dis-

charged from Atascadero State Hospital as improved and considered to be not a menace to society during the period July 1, 1954, through June 30, 1960. Followup of the cases was continued for another full year.

The cases were analyzed by demographic characteristics, frequency of major types of sexual offending, and recidivism rates. Eight of 10 patients were pedophiles (child molesters).

As compared with the adult male population of California, mean age of the patients was 4.7 years younger. The patients also had 1½ years less schooling, and were more likely to be single, divorced, or separated. There were more blue collar workers and more veterans than would be expected. There were also fewer nonwhite patients than would be expected, but this finding was not explainable in the absence of data regarding variances in legal practices in the separate counties.

Among the 58 counties, multiple factors affected the number and type of sex offenders committed to the hospital. Some of the primary determinants were density of population, apprehension, arrest and conviction rates of sex offenders reflecting administrative policies and practices of law enforcement agencies, and district attorneys, and judicial practices and sentencing patterns.

Considering only the 37 counties with at least 10,000 adult male residents, the median annual county representation of patients in the study was 6.5 per 100,000 adult males. The extremes ranged from 3.3 to 18.4 patients per 100,000 adult males. Los Angeles County contributed 47 percent of all the cases in the study.

Median Age

Although 81 percent of the patients were 20 to 55 years old, a median age can be reported accurately only in relation to specific types of sex offending. The median age of the pedophile was 41 if the victim was an unrelated girl under 12, but if she was over 12, his median age was 29. If the victim was a boy, the median age of the pedophile was 33, regardless of the boy's age as under or over 12.

The median age of the exhibitionist was 33 if he victimized a girl under 12, it was 28 if she was a teen, and it was 29 if she was an adult female.

Considering age, type of offending, and a value judgment, and excepting the rapists who were youngest of all, the patients whose median age was under 30 were the least dangerous to society

¹ State of California Welfare and Institutions Code and Laws Relating to Social Welfare, Chapter 4, Sexual Psychopaths. Documents Section, Printing Division, Sacramento, California, 1963, pp. 374-386.

² Louise V. Frisbie and E. H. Dondis, *Recidivism Among Treated Sex Offenders*. California Mental Health Research Monograph, No. 5. Sacramento: Department of Mental Hygiene, 1965 (in press).

³ Louise V. Frisbie, "The Treated Sex Offender," *FEDERAL PROBATION*, March 1958, pp. 18-22.

(e.g., exhibitionists with teen and adult victims, voyeurs, transvestites, lewd persons, homosexuals, and pedophiles with unrelated, teenage girl victims some of whom were consenting partners).

The older and most dangerous patients (median age range 38 to 50 years) were pedophiles with girl victims under 12 who were unrelated or related less closely than a daughter or step-daughter, and pedophiles who victimized both boys and girls.

Marital Status

The marital status of patients differed according to the type of offending. Among the patients who were married at the time of arrest, 68 percent molested girls, and 9 percent molested boys. Boy molesters were most likely to be single. A slightly higher proportion were sometime married as compared with those currently married. This distribution was not unexpected, because the psychological and emotional conflicts which predispose to male pedophilia seem to operate as a deterrent to marriage, or to contribute to termination of marriage.

Residence and Nativity

An inference that sex offenders are generally transients was found to be fallacious because 64 percent had lived in California over 10 years; about three-fourths had lived in the State continuously for over 5 years. Among all patients, 23 percent were native Californians; 5 percent were foreign born. For American-born patients, there was a relationship between their place of birth and the preferred type of offending. Particularly for pedophiles with female victims it appeared that cultural and socioeconomic factors influenced their choice of victims according to age and relatedness.

Schooling and Occupation

Whereas the median years of schooling for all patients was 10.3 years, age, education, and type of offense were directly related. The older, less-well-educated patient was most likely to victimize girls, and especially the youngest girls. The younger, better educated patient was most likely to be a rapist, an exhibitionist, or a boy molester.

The data dispelled another stereotype that sex offenders are shiftless laborers; 40 percent of the patients were skilled or semiskilled craftsmen, and 16 percent grouped into professional, managerial, supervisory, and sales-clerical workers.

Disregarding inferences about social class, status values among the patients classifiable white collar workers, homosexuals and pedophiles with male victims ranked highest; pedophiles with unrelated girl victims ranked higher than those with daughter or step-daughter victims.

Characteristics of Victims

The precise number of sex offenders in a community will never be known, nor will all the victims of all known sex offenders be determined reliably. Some victims are too young to report their experiences; some are too embarrassed or fearful to inform their parents. Some parents are unwilling to expose their children to court proceedings and newspaper publicity, hence reports are made to law-enforcement agencies only when no complaints are filed.

In analyzing the cases of pedophilia for age, and relatedness of the victims, girls under age 4 were least represented, elementary school girls (5 to 11 years) were most preferred, younger adolescents were preferred to late teenagers. One-third of all the female victims were related to the patient; the more closely related the victim, the older the victim (e.g., the median age of daughters was 12, step-daughters under 11). Among boy victims almost three-fourths were under 14; few were related.

Length of Hospitalization and Legal Disposition

Sixty percent of the patients were retained to 18 months and departures from this median period reflected specific types of offending. Rapists were more likely to stay beyond the median period, and fathers with teenage daughter victims were likely to stay less than the median period.

After hospital discharge to the court, 83 percent of the patients received probation, 10 percent went to prison, 4 percent received a jail sentence and 3 percent received another disposition (parole, portation, commitment as mentally ill, etc.). Among the patients sentenced to prison who had a minimum potential of 3 years custody prior to the end of the study, about one-third were paroled in 2 to 3 years; half were still in prison after three years.

In some cases the court had no option but to sentence the patient to prison because of his previous criminal record. In some cases the court could have awarded probation but did not do so, and for the patients who had been treated and judged

clinically to be not dangerous to society this discretionary prison sentence appeared to represent punitive action. It is doubtful that the prison experience augmented the rehabilitation already achieved because legal refutation of clinically determined readiness for release would seem only to encourage bitterness and hostility or promote regression into irrevocable passivity and dependency. In any event, the benefits derived from hospitalization may be seriously diluted or largely wasted, and the patient's amenability to treatment in prison may be minimal because of lack of motivation. Furthermore, from an economic standpoint, society maintains the offender for additional years, and in many instances continued public assistance is required for his dependents.

It is also difficult to understand how a jail sentence as a condition of probation for a treated sex offender can be viewed as a constructive experience or serve a useful purpose in the continuum of rehabilitation. Indeed, such incarceration may revivify the degradation process the patient experienced after his arrest which eventuated in commitment as a "sexual psychopath."

Recidivism

It would be comforting, but naive and unrealistic, for society to expect that every hospital patient so benefitted from psychiatric treatment that he would not reoffend sexually. Psychiatry neither claims nor offers magic cures, and the etiology and the most effective treatment for personality and character disorders involving sexually deviant behavior are both controversial. But experience has shown that custody alone solves neither the social nor the personal problems of the sex offender.

One measurement of social rehabilitation is the extent to which sex offenders recidivate although realistically, it is impossible to know how many men committed a new sex offense but were not reported, or were reported but not apprehended, or were arrested but not tried, or were tried but not convicted. Nevertheless, recidivism rates are the best indicators we have of a patient's success or failure according to legal and societal expectations.

By the termination of data collecting, 385 patients had pleaded guilty to or were convicted of a new sex offense. Thus one among every five patients in the sample recidivated. But this proportion is not a recidivism rate because every patient did not have an equal opportunity to re-

offend. Some men were still in prison, and those who were in society had unequal periods of time depending on the year of hospital discharge or release from custody. It is inaccurate to compute a recidivism rate for criminal offenders unless the opportunity to reoffend is held constant, and the recidivism rates reported hereafter will observe this principle as applied: (1) to a specific period of time following release into society (e.g., first year, third year, etc.); (2) to a cumulative rate from 1 through 6 years; (3) to separate categories of offending; and (4) to selected demographic characteristics of patients.

For patients in the combined offense categories, the first year in society was the most critical. The recidivism rate was 8.7 percent and it gradually declined thereafter in a range from 6.9 percent in the second year to 1.4 percent in the sixth year. When types of offending were evaluated separately, peak crisis periods differed, hence this timing pattern concerns probation officers and parole agents in their supervisory role.

Specifically, boy molesters experienced the highest rate of recidivism in their second year, whereas girl molesters had almost as high a recidivism rate in the fourth year as in the first year. Exhibitionists with minor victims had the same recidivism rate in their first and third year and a zero rate in both the fifth and sixth year. Contrarily, the exhibitionist with adult victims experienced the highest recidivism rate in their first year and the decline thereafter was gradual. Cumulative recidivism rates were based on the total number of potential recidivists who were in society during each year of 5 years studied. For the combined offense categories, the recidivism rate increased gradually to 26.6 percent through the fifth year. In the separate offense categories, the recidivism rates varied from 18.2 percent for pedophiles with female victims, to 46.8 percent for a combined category of voyeurs, transvestites, and lewd persons. The cumulative recidivism rate for pedophiles with male victims was 34.5 percent and for exhibitionists it was 40.7 percent. These rates reinforce the hypothesis that the type of deviant sexual behavior is the most important index of potential recidivism. Furthermore, they show that it is misleading and erroneous to cite a categorical recidivism rate for sex offenders.

The stereotype that sex offenders become progressively more dangerous was partially refuted as follows: Among pedophiles with girl victims, 81 percent of those who recidivated were still ped-

ophiles, 13 percent shifted to a lesser offense (no bodily contact), and 7 percent reoffended with an adult (homosexuality, rape). Among recidivist pedophiles with boy victims, 72 percent were still pedophiles, 18 percent shifted to an offense with no bodily contact, and 10 percent reoffended with an adult. Eighty-two percent of the exhibitionists who recidivated maintained the same pattern, 11 percent shifted to a more serious offense (bodily contact), and 7 percent to a less serious offense (lewdness, etc.).

To summarize, we found that the largest patient group—pedophiles with female victims—were least recidivistic, and within this group those who victimized daughters or step-daughters were least recidivistic of all. Pedophiles victimizing boys had a higher cumulative recidivism rate than did those victimizing girls. The other types of offenders had higher cumulative recidivism rates than did the pedophiles, and, except for the rapists, they were less menaceful to society.

When particular characteristics of recidivists and nonrecidivists were compared, the recidivists were consistently younger. The median age of the recidivist pedophile with a girl victim was about 6 years younger than that of his nonrecidivist counterpart. In separate comparisons of all pedophiles with girl victims who were related or unrelated, the recidivists with unrelated victims had a median age of 33.8 years and were 10 years younger than the nonrecidivists.

Pedophiles with unrelated girl victims were less recidivistic if they were currently married than if they were single, separated or divorced. The converse was true for pedophiles with boy victims; that is, the single male pedophile was least recidivistic.

Marital status was not a significant variable for exhibitionists who recidivated.

Among all patients with at least one foreign-born parent, patients with a foreign-born mother and a native-born father had a higher recidivism rate than patients with a foreign-born father and a native-born mother.

The recidivism rate of native Californians (21 percent) was not significantly different from that of migrants (17 percent). When the migrants were considered separately by their length of residence in California, the recidivism rate was 28 percent for those with less than 2 years in California and 14 percent for those with 10 or more years in California.

Education appeared to be related to recidivism;

however this relationship is conditioned by the fact that younger patients tend to be better educated, and younger patients generally offend in a type of offense in which recidivism most often occurs.

Differences in recidivism rates between blue collar and white collar workers were negligible, however in each category the lower the skill the higher the recidivism rate.

When religion was associated with recidivism, the rates for Catholics and Protestants were similar.

Judges were more severe in dealing with recidivists: 9 percent probation, 53 percent recommitted to Atascadero, 15 percent prison, 16 percent jail, 7 percent other disposition. After the initial discharge from Atascadero, 10 percent of the patients went directly to prison. For recidivists the 5 percent increase in prison sentences does not include the recidivists recommitted to Atascadero, some of whom were returned to court after the observation period and subsequently sentenced to prison.

Probation

The rehabilitation process continues after hospital discharge and a strong positive relationship with a probation officer may help to make the difference between the patient's success or failure in social adjustment. Probation officers often say that sex offenders are the easiest to supervise among adult criminal offenders, so when caseloads are heavy and time is precious, they may unwittingly devote comparatively less attention to sex offenders.

Actually, the patient's therapeutic gains during hospital treatment need to be reinforced through regular counselling by the probation officer who must also be alert to crises or stressful experiences which the patient is encountering in his daily life. Given a reasonable caseload, the skillful probation officer can evaluate social situations, plan purposefully, counsel productively, and introduce contravention measures as indicated. With so much tax money invested in a hospitalized "sexual psychopath," it is an economy for society to provide a strong probation experience as added insurance against sexual recidivism.

When we consider the treated sex offender who recidivates, we may ask: Was the hospital remission in gauging the patient's release readiness, in judging the degree of this insight and his capacity to control his behavior? Once in society, were the

stresses of economic and personal adjustment too severe for the offender to surmount in a time of crisis? Was the re-offense and evidence of failure on the part of the offender alone? We believe there is multiple responsibility which must be shared by the patient, the court, the hospital, the probation officer, the family, and the community.

Future Research

As a result of this research certain facts about a selected group of sex offenders were established and some clues appeared which may be connected with proneness to reoffend. A continued search is necessary to find the best way of dealing with specific types of sex offenders for the maximum protection of society. The Department of Mental Hygiene, therefore, initiated a 2-year research project entitled, "The Social Adjustment of Male Pedophiles in California: Their Backgrounds, Personalities, and Experiences Under Supervision, and a Base Expectancy Scale for Predicting Successful Adjustments." The sample will include all adult male pedophiles in six Southern California counties who: (1) were

found guilty in a Superior Court, (2) were released from a facility of the Department of Corrections, and (3) were discharged from Atascadero State Hospital as Mentally Disordered Sex Offenders.

In addition to a statistical study of all the cases, field investigations will be made in a subgroup of cases under parole or probation supervision. Special investigations also will be made in cases of sexual recidivism with the objective of discovering what factors and/or combinations of factors seem to contribute to repetitious sexual deviancy.

Summary

In the Atascadero study of 1,921 treated "sexual psychopath" patients, three-fourths had not reverted to sexually deviant behavior as measured by a new sex offense conviction within a 5-year period. Many patients in the ordinary routines of living experienced a depth of interpersonal relationships previously unknown. After returning to society many achieved positions of social and occupational respect and acceptance.

Looking at the Law

BY JOHN F. BERLY

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1. When a probationer is charged with violation of probation, must the case be presented by a prosecuting officer, such as the United States attorney or may the probation officer present the case?

There is no legal requirement that the United States attorney be represented at a hearing on revocation of probation or modification of the conditions of probation. It is the generally accepted practice that the probation officer present to the court in writing the facts of the alleged violation. However, a study of supervision practices conducted by the Federal Probation Training Center in 1964, disclosed that the vast majority of probation offices collaborate closely with the United States attorney in revocation matters. Ninety-four probation offices, or 57 percent, routinely send copies of violation reports to the United States attorney. Although there is no legal requirement that the United States attorney be represented at a hearing on revocation of probation or modification of the conditions of probation, as a matter of orderly procedure and in the best interest of the administration of justice, the office of the United States attorney should be notified of such hearing and afforded an opportunity to be represented.

In many cases the United States attorney may be in a position to make representations or recommendations to the court with respect to matters which otherwise might escape the court's attention.

2. What generally is acceptable evidence upon which probation can be revoked or continued?

Although the law requires that a probationer must be given a hearing before probation is revoked (*Escoe v. Zerbst*, 295 U.S. 490) the defendant is not entitled to a trial in a technical sense. At such revocation hearing there must be an inquiry fitted to the needs of the occasion to support the conclusion that there was no abuse of discretion by the court in revoking probation. The defendant must be given an opportunity to make a statement and to present evidence and witnesses in his behalf if he wishes to do so. The degree of proof justifying revocation of probation need not convince the court beyond a reasonable doubt as required in a criminal trial. It is sufficient that the court be reasonably satisfied that it is in the best interest of the probationer, his family, and the community that probation be revoked.

3. If a defendant is committed for observation and study pursuant to 18 USC 5010(e), the Youth Corrections Act, what is the effective date of sentence, the date he is committed for study, or the date final sentence is imposed?

This question points up an inequity which has existed for 7 years—since the enactment of 18 USC 4208, in August 1958. Section 4208(b), which provides for commitment for study and observation before final sentence is imposed, also provides specifically that the sentence shall be computed from the date the defendant is committed for such study.

Section 5010(e), which antedates Section 4208 by 8 years, does not carry such specific direction. The inequity

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In the period between 1960 and 1975 there was a massive, largely successful, effort at the State and Federal levels to comprehensively reform the criminal law. California was part of this movement. However, comprehensive penal code reform was unsuccessful in this state. The dissertation seeks to explain the reasons for the failure. The basic empirical input for the dissertation came from interviews with the main actors in the penal code reform process in California. Thirty-seven persons were interviewed for the dissertation. The participants also left behind a voluminous written record. Newspapers around the state also contained reports on various key events. All these sources were used. In 1960 the California penal code, like that of nearly all other penal codes in the United States, was the product of piecemeal evolution from preindustrial days. By 1960 the foundation was laid for a nationwide effort to update State and Federal criminal laws so that they could meet the conditions of life in an advanced industrial society. The main building block in the foundation was the completion of the Model Penal Code (MPC) by the American Law Institute (ALI). The ALI is an east coast think tank for law reform. It has financial ties to the old American fortunes. The work of the ALI on criminal law reform was financed by the Rockefeller interests. Its final product, the MPC, provided a comprehensive set of proposals to update the criminal law. In California the impetus for comprehensive penal code reform came from a group of law professors from the prestigious law schools who had either participated in the drafting of the MPC or shared its outlook. In 1963, the efforts of the professors culminated in the creation of the Joint Legislative for the Revision of the Penal Code (JLC). The professors became the staff of the project, with headquarters at Berkeley, California. Between 1964 and 1968 the professors prepared comprehensive proposals for penal code reform based on the MPC. While the professors worked, the political context in the state changed. Student demonstrations coupled with an uprising in Watts transformed the political climate. The electorate shifted to the right and provided a base for the rise of Ronald Reagan, a conservative. At the same time, the crime rate was rising, with all of its class and racial overtones. This shift in the political climate also was reflected in the State Legislature. The professors were out of contact with this change and fell victim to rightwing forces. They were purged from the staff of the JLC in 1969. After the purge, a former Deputy Attorney General was appointed to redirect the reform process along more traditional lines. The MPC was rejected as a guideline in favor of California criminal law. The results were introduced into the California Legislature in 1973. These proposals died in the Assembly due to the absence of liberal support. Liberals distrusted the comprehensive reform proposals

of liberal support. Liberals distrusted the comprehensive reform proposals because they were the product of the post-purge staff. The liberals opted instead for piecemeal reform since all participants had greater control of the outcome. In fact, piecemeal amendments of the penal code in 1975 resulted in the collapse of the effort at comprehensive reform. From a broader perspective, the penal code reform movement in California was one aspect of a struggle between old and new wealth in the United States.

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GO TO NUMBER:

California Law, 2001

Crime	Penalty	Comments
Section 261(2). Rape: sexual intercourse against a person's will by means of force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the person or another. Section 289, sexual penetration, uses the same criteria and penalties, using a foreign object, substance, instrument, device, or unknown object, including any part of the body.	State prison, 3, 6, or 8 years	Consent means "positive cooperation in act or attitude pursuant to an exercise of free will. The person must act freely and voluntarily and have knowledge of the nature of the act. The same criteria and penalties apply to forcible oral copulation [288(3)].
261.5(A) Unlawful sexual intercourse with a minor (non-spouse); or sexual penetration (289h) with a minor; or oral copulation with a minor (288b)	Misdemeanor; imprisonment for not more than one year.	minor = under 18 adult = 18 +
261.5(B) Unlawful sexual intercourse with a minor within 3 yrs. of perpetrator's age.	Misdemeanor	Adults may be liable for additional civil penalties: Adult with minor <2 yrs. younger, \$2,000
261.5(C) Unlawful Sexual Intercourse. With a minor more than 3 yrs. younger than the perpetrator; either a misdemeanor or a felony; plus civil penalties:	Either a misdemeanor or a felony	2 yrs. + younger, \$5,000 3 yrs. + younger, \$10,000
261.5(D) A person 21 or older engages in unlawful sexual intercourse with a minor under 16	Either a misdemeanor or a felony, county jail for one year, or state prison 2-4 yrs.	Over 21 & under 16, \$25,000 Sexual penetration (289i) and oral copulation (288b(2) in these circumstances is a felony.
262. Spousal Rape	3, 6 or 8 years state prison; or probation & payment to battered women's shelter, restitution to victim	Same criteria as rape (force, violence, etc.)
269. Aggravated sexual assault of a child. Child under 14, and person guilty of assault 10 + yrs. older, commits: gang rape (264.1), forcible sodomy, forced oral copulation, or any other sexual penetration (see 289) by force, violence, or threat.	15 yrs. to life. Sentence may not be suspended without a report from psychiatrist or psychologist or treatment program (288.1).	Section 289J specifies 3, 6, or 8 years with these age limits when sexual penetration is with foreign object, substance, instrument, or other part of the body, or for oral copulation(288c(1)). This statute (269)applies only to forcible acts.
288.5 Continuous sexual abuse of a child. 3+ acts of substantial sexual conduct with child <14 in not less than 3 months.	Imprisonment for 6, 12 or 16 yrs.	