MORE ABSTRACTS OF PAPERS PRESENTED AT THE 1963 ANNUAL MEETING

SOCIO-PSYCHOLOGICAL STUDY OF A SUB-CULTURE OF VIOLENCE

Dr. Franco Ferracuti, University of Puerto Rico and Dr. Marvin Wolfgang, University of Pennsylvania.

A socio-psychological hypothesis recently presented by Ferracuti and Wolfgang attempts to explain the significant high rates of homicide among particular groups with their participation in a subculture of violence. The relationship between the group's degree of violence and the sub-culture to which the group belongs is under investigation. Data from the Wolfgang study in Philadelphia tend to support the hypothesis of a subculture of violence as an explanation for the internal need for aggression as manifested in the readiness for the use of violence of individuals who commit aggressive crimes.

THE CONTROL OF BEHAVIOR BY PUNISHMENT

Dr. James P. Appel, Yale University.

Experiments conducted on pigeons, rats, and monkeys show that brief painful shocks presented immediately after rewarded behavior suppress that behavior for a time (amount of suppression dependant upon intensity of punishing stimulus).

It is Appel's thesis that, "while punishment may suppress behavior, it can, by itself, have no therapeutic or beneficial consequences because it ordinarily neither permanently eliminates nor radically alters the disposition to emit the punished response."

It was found the (1) suppressed behavior usually returns to normal (pre-punishment) level as soon as punishment is withdrawn (except with severe or suddenly introduced shock causing physiologically damaging side effects). Since this occurs, (2) it would be necessary to continue to punish an act in order to maintain a given amount of suppression. Therefore, (3) there remains little experimental support for the notion that punishment can facilitate the elimination of a previously acquired but no longer effective habit.

The evidence from the animal experiments seems to indicate that, although punishment can and does suppress a response, it is by itself, essentially an ineffective way to control or to eliminate behavior.

DEFENDANT FOUND NOT GUILTY SHOULD BE REPRAID LEGAL COSTS

Arthur J. Goldberg, Associate Justice of the Supreme Court, has proposed that defendants found not guilty in criminal trials should be reimbursed for their defense expenses. He made the suggestion in one of the James Madison lectures delivered in February at the New York University School of Law.

The proposal was one of a series stressing the need for overhauling criminal law to assure legal equality to poverty-stricken and even to middle-class families. "At the very least," Justice Goldberg declared, "we should extend our provision of free legal services in criminal cases to include many hard-working people who, although not indigent, cannot, without extraordinary sacrifice, raise sufficient funds to defend themselves or a member of their family against a criminal charge."

He commented that when the police rounded up "suspects," they generally did so in poor neighborhoods and seldom in middle-class communities. As a result, he contended, more poor than rich persons are arrested for crimes they do not commit.

CRIMINOLOGY PROGRAM AT UNIV. OF MONTREAL

The Department of Criminology has a two year program of study leading to a Master of Arts (Criminology). Any student who has been graduated with the degree of Bachelor of Social Science, Faculty of Social Sciences, or its equivalent may be admitted to its program. Equally eligible are graduate students in law, medicine, psychology, sociology, social work, education, statistics and administration.

Credits are obtained according to an individual program consisting of lectures and seminars as well as research training and supervised externships in applied settings by professors who are specialists in criminology, penology and related disciplines. The number of credits required vary according to individual needs, but must not be less than thirty credits (thirty lecture hours equal two credits). In addition, a student must submit a dissertation for the obtention of a Master's diploma.

A student may choose one of three options: 1. Control of the Socially Dangerous, etiology and treatment; 2. Organization and administration of Institutions dealing with the socially dangerous; 3. Criminal Policy. Each option presupposes a preparation in the social sciences, law and medicine. Hence, courses in social psychology, sociology and research methods, consisting of about two hundred lecture hours are part of the first year program.

Plan now to attend the 1964 Annual Meeting of the American Society of Criminology at Montreal, Canada. The dates for this year's meeting: December 28, 29, 30, 1964.
FROM THE EDITOR'S CORNER

Our plan to expand CRIMINOLOGICA has been brought to reality in the current issue. We apologize for its lateness, but we hope that as a consequence you have a more worthwhile issue to read.

In addition to the regular features, we have introduced a new section dealing with police training which will be prepared regularly by Professor Harry W. More of Washington State University. We hope that persons involved in police training will keep in touch with Professor More so that his section will contain meaningful and timely information to pass on to our readers.

We are pleased to report that libraries across the country are including CRIMINOLOGICA among their periodical holdings. It is to be hoped that each member will encourage his local librarian to order CRIMINOLOGICA.

C.L.N.

Advertisers Wanted

In order to expand the size and coverage of CRIMINOLOGICA, additional revenues are needed from sources outside the Society. Advertising in keeping with the general purposes of the Society will be accepted according to the following rate structure:

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Particularly solicited are publishers announcements of new books in the field of criminology and announcements of academic programs.
Correctional Work: ‘Think Ye That Ye May Be Wrong’

Gilbert Geis *

I am going to subsume my comments under four general headings. They all refer to areas in which corrections and its practitioners need, it seems to me, to examine their performance and its implications. I shall state them categorically as inadequacies. I think that the practice of correctional work is: First, Impervious to logical argument; Second, Insensitive to basic issues of civil liberty and democratic ideals; Third, Indifferent to crime-causing elements in the external political and social world; and Fourth, In hospitable to research and novelty.

1. The tendency in corrections to substitute ambulatory diagnosis for cogent and overt discourse is related to the first point. I recall for instance a group therapy session in a California institution. The discussion centered about a loud complaint by an inmate that he had checked his going-home clothes only to find that his expensive sports jacket had been stolen. What kind of a prison was this, he wanted to know, where the custodial people could not adequately protect a man’s property?

The leader, of course, wanted to know what the group thought. They thought it was pretty disgusting and, thus reinforced, the inmate resumed a vitriolic attack on the supposed guardians of his belongings. Again, the leader interposed, turning aside the question directed at him, asking him what he thought of the situation.

“What do you think about it?” he asked the inmate.

The inmate, who had made it quite clear what he thought, reiterated his opinion. Perhaps you can guess the leader’s response:

“Why do you think that?” he wanted to know. “What do clothes really mean to you?”

Very angry now, the inmate stepped up his attack on the injustice of the loss. But the remainder of the group now began to send out cues that made me a little ill.

“Forget about it,” they warned. “Don’t lose your temper. It’s just one of their tricks. They put the stuff someplace else so see how’ll you take it, and then decide whether or not you can go home. It ain’t worth it.”

Duly warned by this absurd interpretation of the situation, the inmate became quite conciliatory and dropped the subject as soon as the leader would let him.

I do not mean to belittle the dynamics of the situation, but I do mean to indicate that, to me, the only decent response to the man’s anger at his loss was an honest support of his indignation and a shared criticism of the dereliction of the custodial officer responsible for the clothes. This, in part, is what is meant by a failure to respond with logic and decency to legitimate outries.

Perhaps the problem is more fundamental. Perhaps group therapy cannot be adequate so long as persons performing it are involved in determining the ultimate fate of the inmate participant. If a man is led to disclose a deep-seated personal problem, the chances are excellent that this desirable response to his treatment will delay his return to free society. Few inmates require much time to learn that it pays to have a problem, even if one has to manufacture one, and to discuss it with an air of frankness, but that it does not pay to have a very serious problem. It is desirable, in fact admirable, to lust, just a little, for one’s mother, but it will never do to hold the same feelings for little girls or other men.

2. Corrections has of late been coming under rather strong attack on the ground that beneath its cloak of benevolence is a flagrant insensitivity to fundamental democratic issues of civil liberties.

It is the preemptive attitude of the healing and rehabilitative orientation that led Thomas Szasz, a free-swinging psychiatrist, to maintain recently that the United States is in danger of becoming a Therapeutic State, marked by “moral fascism.” “So-called treatments,” Szasz suggests, “especially if applied to involuntary patients, are more often punishments than treatments.” Francis Allen, a law professor, has argued along the same lines. “It should be pointed out,” Allen says, “that the values of individual liberty may be imperiled by claims to knowledge and therapeutic technique that we, in fact, do not possess and by failure candidly to concede what we do not know. Ignorance, in itself, it not disgraceful so long as it is unavoidable. But when we rush to measures affecting human liberty and human dignity on the assumption that we know what we do not know or can do what we cannot do, then the problem of ignorance takes on a more sinister hue.”

3. The problem of correction’s failure to pay greater heed to the “real” world outside of the individual and imposing upon him is related in part to its inability to make much impress upon that world. Forced to deal with the individual offender as if he were a unique entity, correctional workers inevitably focus upon characteristics of his personality and diagnosis of his alleged aberrations. In fact, the offender may be nothing more complicated than a human being responding with some sense to a set of social imperatives.

Lee Steiner, a psychologist, has put the issue more bluntly. Referring to promiscuous, young, and somewhat unmarried females, Miss Steiner suggests that, all things told, volleyball really can’t hold a candlestick to the orgasm. For what same reason, she asks, should young

* This is an abridged version of a paper presented at the Third Annual Institutional Workers’ Conference, Chapman College, Orange, Calif., Jan. 29, 1964. The writer is Professor of Sociology, California State College at Los Angeles.
lower class girls refrain from pleasurable activity unless there exists reasonable social opportunity to gain compensating pleasure, here or thereafter, in this world or the next. After all, boys who own cars are not known to have a very high auto theft rate. Nonetheless, we continue to insist that all or most criminals are sick and that the only way to alleviate their criminal behavior is to cure their illness; while at the same time we are confronted with evidence showing that medical drug addicts - doctors - who presumably are just as sick, apparently manage to kick their drug habit adequately in a large majority of cases and with no earthshaking alterations in their illness. Presumably this occurs because doctors have a preeminent investment in the social system, that they are tied into it.

It seems instructive, for instance, that juvenile delinquency is not only an American cause for head-shaking but has become a world-wide phenomenon. There does not appear to be any obvious answer to delinquency in the realm of individual pathology which would be applicable to the widespread presence of the staliyagi in the Soviet Union, a country which has exercised as ruthless and efficient a control over the habits and ideas of its population as any nation in the modern world.

The basic question to be addressed, I would think, is: What is there about that society, despite the incessant advertising of its virtues and the elimination of counter forces, that has failed to attract the allegiance of so large a number of the youth? And when we approach an answer, perhaps we can look at ourselves in its reflection. What is it about law-abiding (in its fashion and in its way) middle-class American society that fails to win the active orientation of so considerable a number of our youth? Is suburban living itself unappetizing, or is the social structure such that it is for a large section of the deviating population unobtainable?

4. Twenty years ago, the Cambridge-Somerville study challenged sharply many of the basic tenets involved in the treatment of delinquents. You will recall that 325 cases were given special treatment and a control group of 325 was left to its own devices. After the passage of more than six years, when the experiment was abandoned, the youngsters who had not been given any treatment showed a slightly lower rate of delinquency than those who had. Not too long ago, both groups were again examined to determine if the passage of time might have made manifest some latent advantages of the service and counseling the experimental group had received at such a great expenditure of funds and manpower. None was found.

There are many pitfalls involved in taking altogether literally the quite horrifying outcome of the Cambridge-Somerville study, and a person might profitably spend time calling attention to these. But the thrust of the result remains unchallenged either by later or more sophisticated research of the same nature or by the incorporation of some of the suggestive implications of the work into action programs. The dual tendency of correction to fail to do comprehensive research and to ignore such fruitifying research when it is done, while less than totally accurate for California, remains in general one of the field's basic shortcomings.

I need not multiply cautionary tales. Polsky, for example, had told us quite convincingly that even in the very best kind of institution there often is little relationship between the treatment system and the more real and important peer world of the treated. If I read him correctly, he insists that treatment personnel not live elsewhere and office in administrative isolation, but that they sleep amongst their charges, eat with them, and do their therapy, as it were, on the premises. But one of the quixotic rewards of corrections, of course, is that the person spending the most time with the wards is the least trained and most poorly paid, and one of the advantages of promotion is that one need have less to do with those he is now being more highly paid to treat.

Lest I be open to the accusation that all I have said is destructive, I would suggest that, though I have defined my role as inquisitorial, there are implicit in my remarks many items which can readily be translated into positive recommendations. I think, for instance, that therapists should not be attached to the correctional system to the extent that the material they garner will, or must, be employed in an invidious manner against the persons supplying that information. I think that rehabilitative stress should be placed within the living quarters and daily routine and that treatment personnel should be flushed out of their offices and cubicles and forced to intermingle incessantly with their charges. I think that relentless inquiry should be directed at the assumptions of our work and the relationship between it and these assumptions. I think that persons in corrections should be forced to read, to ponder, to meditate, to experiment—and they should be given ample opportunity and reward for such endeavor.

In particular, I would recommend that correctional people force their way into the political and social arena. There is something very chilly about a profession whose most basic task is to make another human being adjust to society, but which is not intimately acquainted with the ingredients of that society. There are, for example, much worse things than getting into trouble and going to prison, and we should all be acutely aware of what these things are.

More than virtually all persons in our society, correctional people are in a position to know where its ugliness and inequity and soreness lies. It is a terrible default to maintain blandly that it is the failure of the individual to come to grips with "reality," while not at the same time making strenuous, concerted, and organized efforts to see that reality is altered if it is crippling to our citizens. Correction should be in the vanguard in the movement for social justice; instead, if I read the record correctly, it is apathetic and indifferent to such issues.

There are terrible dangers involved in corrections,
dangers which often are ignored because, dealing with parials, we are not forced either by them or by outsiders to conduct searching examinations and reexaminations of our operations.

There is the particular danger of translating predilection into policy, and making the assumption that the equivalence is a measure of adequacy. In a rather freewheeling, diagnostic world of corrections, there is, as some commentators have noted in connection with another such agency, the juvenile court, “power, enforceable coercion, over people’s lives; the power to order their lives, to make devastating mistakes sometimes.” There is as well as another writer put the matter, “the numbing impact of long exposure to human shortcomings and the creeping arrogance so often implicit in unlimited authority.”

It was in these terms that I chose the subtitle for my talk. In attempting to capture the essence of freedom, Justice Learned Hand went back to Cromwellian England for his guideline. There he found a motto which he said, if he had his way, would be written in bold letters over every courthouse, every schoolroom, every public building, and every private home in the land. It could also serve well in correctional agencies. I would suggest that it contains the necessary ingredients for intellectual interchange, free inquiry, and continual progress.

They are very simple words, with something of a biblical ring. Cromwell sent them to an enemy determined on making war in the guise of an impelling mission:

Wrote Cromwell: “Think ye that ye may be wrong.”

POLICE TRAINING

A new feature of CRIMINOLOGICA prepared by Professor Harry W. More, Dept. of Police Science and Administration, Washington State University, Pullman.

This fall Washington State University, through its General Extension Service, will offer an expanded Police Science program at its Spokane, Washington center.

A certification program has been set up in Police Science and Administration requiring the completion of thirty semester hours of work. Fifteen hours are to be in Police Science and fifteen hours chosen from English, Speech, Psychology, Sociology and Political Science.

The Bureau of Industrial Education, State of California reports that Police Science ranked second in the greatest number of enrollments in Junior Colleges. Police Science enrollments totaled approximately 13,000.

The International Association of Chiefs of Police will hold its 71st Annual Conference at the Kentucky Hotel, Louisville, Kentucky on October 24-29, 1964.

Trial of Criminal Cases

The sixth amendment of the U.S. Constitution “purports to guarantee to a defendant in national courts a fair and speedy trial by a jury of his peers via vicinage.” Two bills (S. 1801, S. 1802) concerned with the effectuation of the purposes of the sixth amendment were introduced in the Senate, June 28. S. 1801 would require that defendants in criminal cases be given the right to a speedy trial, and S. 1802 would limit “the all too common practice of trying prominent defendants in the newspapers rather than in the courts, with the result that no unbiased jury can be secured in the event that the case goes to trial and, if it does not, the accused has been smeared without being given an opportunity to clear his name.”

PAROLE PERFORMANCE

An attempt to determine whether or not the releases of different institutions perform differently on parole was made by the Division of Research of the California Department of the Youth Authority. A study of 18,859 male Youth Authority wards released to California parole supervision from 1956 through 1960, revealed that “in no case are wards of one risk group found to be more responsive to a given treatment (institution of release) than wards of other risk groups . . . .” With respect to over-all treatment effects, it was found that the releases of some institutions do, in varying degree, perform significantly better or worse on parole than the releases of all other institutions . . . . significant differences may be the result of statistically uncontrolled selection factors rather than treatment.

ABA TO SURVEY CRIMINAL JUSTICE

The American Bar Association has set up a research project to draft a new code of minimum standards for criminal justice. The code will deal with police interrogation, bail, the prosecutor’s role, publicity, uniform sentencing, probation, jails and prisons, and social welfare functions of the courts. It will also cover the indigent or unpopular defendant’s right to counsel. The research is expected to be finished by August.

BIBLIOGRAPHICAL MANUAL IN CRIMINOLOGY

NCDC’s Information Center on Crime and Delinquency has published A Bibliographical Manual for the Student of Criminology, by Thornsten Sellin and Leonard D. Savitz. The manual is a time-saving device for students and researchers who are working on criminological problems and who need assistance in locating . . . source data . . . . issued in the United States.” Copies are available free of charge as long as the supply lasts. Write to the Information Center on Crime and Delinquency, 44 East 23 St., New York 10010.
"A Straight Look at Narcotic Addiction"

Austin MacCormick

This paper was prepared at a time when the final report of the President's Advisory Commission on Narcotic and Drug Abuse had been delivered to President Kennedy but had not yet been released to the press because of his tragic death. Until its release it is a confidential document. As a member of the Commission, I am therefore unable to use in the paper material from the report except what is a matter of public record elsewhere, or ideas and opinions which I have derived from over 30 years of dealing with drug addiction and addicts, particularly as Assistant Director of the U. S. Bureau of Prisons and as Commissioner of Correction in New York City.

It is possible that the Commission's final report will be released before this paper is delivered. If it is, the paper as written will be followed by an Addendum, summarizing the Commission's findings and recommendations and commenting briefly on them.

One more comment is necessary before I end this prologue. Although the paper focuses on narcotic addiction, it is pertinent to discuss other drugs, especially the so-called "dangerous drugs," which are widely and beneficially used in medical practice but are now excessively and destructively used without medical sanction to a point where the United States is confronted with a new and baffling form of drug addiction.

It is probably unnecessary, with most of those who hear or read this paper, to discuss the nature of addiction to narcotics and other drugs. It is desirable, however, to make some distinctions between terms commonly and often interchangeably used. The three elements present in true addiction are physical tolerance, meaning that increasing amounts of the drug used are required to produce the same effect; psychological dependence, meaning that there is a psychological and emotional compulsion to continue use of the drug; and physical dependence, meaning that sudden withdrawal of the drug or sudden and drastic reduction of the amount used will cause severe physical distress and other painful withdrawal effects. In addiction to morphine, heroin and the other opiates, all three elements are present. These well-known facts are spelled out only to emphasize that it is not scientifically sound to refer to a person as addicted or a drug as addicting unless the third element—physical dependence—is present.

This does not mean that a drug which is non-addicting under that definition is not destructive to the individual. Cocaine is physically non-addicting, but is probably the most dangerous drug in the entire list of those used by so-called addicts. Marihuana, known around the world by such various names as hemp, cannabis, and so on, is not physically addicting, although in the United States its possession or sale is usually subject to the same penalties as those applied in cases involving opiates.

Marihuana, moreover, contrary to popular belief, does not cause everyone who uses it to commit sexual crimes or crimes of violence in general. It affects different people in different ways: making some drowsy and dull, others lively and excited, some friendly and peaceful, others aggressive and belligerent. Its effects, in short, are more nearly comparable to those of alcohol than to those of the other drugs widely used and abused in America. It is potentially dangerous to the user, especially the young novice, because it releases inhibitions and seriously impairs one's sense of time and space, as alcohol does, but without the physical incapacity which in some degree protects the drunken person against putting sexual desires and impulses into effect. In this connection, it is pertinent to cite the fact, again contrary to popular belief, that addiction to heroin reduces sexual desires, often to the vanishing point. Finally, marihuana is dangerous because its use frequently leads to use of heroin.

Alcohol having been mentioned, it should be said here that persons who are authorities on the subject of alcoholism as well as the narcotics problem have repeatedly stated that alcoholism in the United States is a much more serious problem than heroin addiction, in the number of persons involved and in the amount and severity of the damage done to families and to society in general. Estimating the number of heroin addicts in this country arbitrarily at a maximum of 100,000 (probably too high but no worse than other blind guesses available to us), they are outnumbered 50 to one by the 5,000,000 alcoholics. The alcoholics, moreover, cast a blight on the lives of at least 25,000,000 family members and other near relatives that is more destructive than the blight cast by narcotic addicts, tragic as the latter is.

In all that has been said thus far, references to addiction, narcotics, heroin, and so on, have been made as though they constitute the whole problem. You will note that the title of the President's Advisory Commission did not end in the words "on Narcotic Addiction," but used the expression "Narcotic and Drug Abuse." This was a carefully discriminating choice of words. The Commission was not concerned, and I am not in this paper, merely
with heroin and other narcotics or with those who use them to the point of addiction. The term “abuse” covers a wide range from any use beyond a safe and sensible degree of a potentially addicting or otherwise dangerous drug up to (or down to) true addiction, or comparable slavery to a drug that is not physically addicting but has severe psychotoxic effects. “Abuse” is therefore a more accurate term to use when referring to all those who use narcotics and other drugs to excess, including those who are addicted. The total problem in other words, is the abuse of many drugs, not narcotic addiction alone.

It is possible that the number of true heroin addicts, including the hard core of persons who have been addicted for many years, is larger than it was ten years ago, and perhaps it is smaller. It probable, on the other hand, that the number of persons who use heroin occasionally without becoming heavily addicted has increased. There are no valid statistics on this point.

Officials at the U. S. Public Health Service Hospital at Lexington have told me that persons heavily addicted to heroin are rarely received. Heroin seized at the level of the street seller and user nowadays has usually been cut until it is only three to five per cent pure. In New York and other large cities there are many so-called “spree-users,” especially youths, who use heroin or drugs over the weekend or when they are going to a dance or some other social affair, but do not become addicted.

The personnel of a hospital treatment center at the edge of a New York slum area believe that all the male teen-agers in the area have been exposed to heroin for years, practically all have experimented with it, and a large percentage use some drug occasionally, but only about eight out of every 100 have become addicted to heroin. Considering the fact that environmental factors as well as “personality traits” are commonly given as causes of drug addiction, it would be interesting and helpful to know why eight slum area youths became addicted, and 92 of the same type and living in the same environment do not.

There has been in recent years a striking and alarming increase in the abuse of the so-called “dangerous drugs”: the barbiturates, marketed under about 50 trade names (Nembutal, Seconal, Amytal, etc.) and known in illicit trade as “goof balls”; the amphetamines (the benzodrine type of drugs), known as “pep pills”; and the tranquilizers. The barbiturates are addicting, the amphetamines are habit-forming but not addicting in the sense that they do not produce physical dependence, and many of the tranquilizers are addicting when used long enough in excessive amounts. In this paper only the barbiturates will be discussed, although one must not discount the dangers in abuse of the other two categories of drugs. The amphetamines, used to excess, are particularly dangerous to automobile drivers, especially when they have been drinking alcoholic beverages, and truck stops are favorite sales points for illicit peddlers.

As stated, the barbiturates are both psychologically and physically addicting, the condition of the person abusing them is a form of intoxication, and the withdrawal symptoms are very severe, including delirium and convulsions. Because of the ease with which the barbiturates can be obtained and a lethal dose taken, they account for many suicides and accidental deaths. The illicit traffic in barbiturates has grown enormously in the United States, and there is evidence that many heroin users have turned to them as a complete or partial substitute for heroin. Use of barbiturates by juveniles and youths has become an increasingly serious problem. There are large profits for the peddler or dishonest druggist. Capsules which sell at wholesale prices for less than a dollar a thousand bring 10 to 25 cents or more apiece when bought without a prescription. There are advantages in the use of these drugs for both users and sellers. Barbiturates are easier to get, easier to conceal and use, and much less expensive than heroin. Their possession and sale are less dangerous from the law enforcement standpoint; prohibitions and penalties are aimed principally at the dispensing of the drugs without a valid prescription.

Since the so-called dangerous drugs, particularly the barbiturates and tranquilizers, are beneficial where properly prescribed and used, it is virtually impossible to control the manufacture, distribution and dispensing of these drugs rigidly enough to keep them out of the illicit market without seriously handicapping legitimate medical practice. Bills now under consideration by Congress would, under the interstate commerce provisions of the Constitution, strengthen controls by requiring careful record-keeping and inspections from the level of the manufacturers down to that of the pharmacists who dispense the drugs. California’s experience illustrates the complexity of the problem. In recent years large quantities of barbiturates have been shipped by legitimate American manufacturers to real or bogus pharmaceutical establishments in Mexico, particularly those near the border. From there they have been smuggled back into the United States, and hundreds of thousands of capsules and tablets have reached the illicit market.

To focus now on narcotic addiction, which when put in the setting of the total problem of drug abuse is seen in a more realistic light, the efforts in the United States to prevent its spread and to reduce its incidence have proceeded traditionally along four major lines: attempts (1) to restrict the production, manufacture and distribution of narcotics by international covenants and controls to the amount required to meet the world’s medical and scientific needs; (2) to prevent the smuggling of narcotics, particularly heroin, across our land and sea borders and through air lanes; (3) to control the illicit narcotic traffic, from the international syndicate to the sellers on the streets, by legislation and law enforcement; and (4) to “cure” the narcotic addict by various forms
of institutional and non-institutional treatment.

The efforts of the League of Nations to establish controls by international covenants showed great promise in the 1930's. The flood of narcotics entering this country receded to the lowest level we have ever achieved. After World War II, the flood-gates opened wide and the isolation of the Iron Curtain countries and of Red China have made it impossible to close them.

United Nations, through its Secretariat, its Commission on Narcotic Drugs and its Permanent Central Opium Board, has worked vigorously to reestablish effective international controls, but progress is slow. The Protocol of 1953, a United Nations protocol which the United States supported, was not ratified by the required number of signatory nations until March 8, 1963. A Single Convention on Narcotic Drugs, initiated in 1961 to supersede the preceding ones, including that of 1953, is now awaiting ratification by member nations. The United States Government has not ratified the 1961 Convention (covenant), since it would seriously weaken the limitations on the production of opium established by the Protocol of 1953.

The task of attempting to prevent the smuggling of narcotics, marihuana and other illicit drugs into the United States is the responsibility of the Bureau of Customs in the Treasury Department. The principal drug smuggled is heroin, all of which is produced in other countries. The Bureau has a force of 484 Customs Port Investigators and 245 Criminal Investigators (the latter are top-level agents) to protect our Canadian and Mexican borders, all seacoasts and ports of entry, and all airlines against all types of smuggling, including smuggling easily hidden narcotics. This force is little over half as large as it was 15 years ago. All efforts to restore the drastic cuts made since then have failed in spite of the fact that informed authorities estimate that about 1½ tons of heroin are smuggled into the United States each year.

Federal responsibility for dealing with the illicit traffic after the drugs cross our borders is lodged in the Bureau of Narcotics, also in the Treasury Department. The Bureau has recently been given responsibility also for providing agents for overseas assignments. They cooperate with foreign countries in trying to control the international traffic, for which the United States is the principal market. The overseas service has high potentialities in the attack on international and national crime syndicates. The Federal Bureau of Narcotics, however, has only 14 agents assigned to eight foreign countries: Italy, France, Turkey, Lebanon, Mexico, Thailand, Malaysia and Hong Kong.

The total strength of the Bureau of Narcotics is 435 persons, of whom 297 are enforcement agents. With 14 overseas, 283 agents are left to man the 13 administrative districts into which the United States is divided, with headquarters or branch offices in 41 cities. In New York, the city with the largest addict population, the Bureau has only 85 agents, in Chicago 40 agents, and in Los Angeles 25 to 30 agents. The police forces of these cities have comparatively large narcotic bureaus or divisions, but nobody can realistically claim that the illicit drug traffic, either international or national, is effectively controlled.

The Bureau of Narcotics has been concentrating in recent years on crime syndicates and other large-scale smugglers and wholesalers. A substantial number of men in this category have been convicted and sent to Federal penitentiaries under long sentences. Overseas agents have played an effective role in the detection and investigation of cases involving international connections. The Bureau has asked for only very small increases in the overseas force, however, and insists that its force of agents in the United States is adequate. In view of the flourishing narcotic traffic in our large urban areas, this position seems untenable.

The Federal Bureau of Narcotics has for many years, and especially in the last decade, relied primarily on heavy sentences to imprisonment in its efforts to control narcotic addiction and the illicit drug traffic. Largely because of its persuasion, Congress passed in 1956 legislation which imposed some of the most severe mandatory penalties ever written into law. They apply not only to large-scale traffickers who are members of crime syndicates but also to sick addicts who have been convicted of possession of narcotics, or of sales made to accommodate other addicts or to support their own addiction. For some offenses, in addition to long sentences, probation and parole are prohibited. There are today over 2,000 prisoners in Federal institutions serving sentences under these laws. They are of widely different types, but the Federal judges who sentenced them had no discretion under the mandatory provisions.

It is seldom suggested that the legal penalties for syndicate wholesalers be reduced, although the testimony of all penal history is against the belief that reliance on severe penalties inflicted on a few offenders will reduce crime in general or crime in a particular category. Many responsible legal and correctional authorities, however, have spoken out vigorously against heavy mandatory penalties for offenders who are primarily sick addicts and whose crimes, usually minor in nature and seldom involving violence, have usually been committed to secure funds to maintain an inescapably compulsive habit.

James V. Bennett, veteran Director of the United States Bureau of Prisons, has made uncompromisingly forthright statements against the present heavy mandatory penalties as applied to this type of addict. Able and experienced Federal judges voiced strong opposition at the White House Conference on Narcotic and Drug Abuse. Senator Dodd of Connecticut was similarly outspoken at the Conference. He reported that all the
Federal officials and judges who responded to a questionnaire asking their opinions of the present laws, 73 per cent of the judges, 50 per cent of the U. S. District Attorneys, 92 per cent of the wardens, and 83 per cent of the probation officers were opposed to the mandatory minimum sentence provisions. The percentages opposed to the prohibition of probation and parole were as follows: judges--86 per cent; U. S. Attorneys--55 per cent; wardens--97 per cent; and probation officers--86 per cent.

There is reason to believe that, in the not too distant future, the mandatory provisions of the laws and the prohibitions of probation and parole will be amended to give Federal judges discretion in lower-echelon cases, at least. Whether we are motivated by humanitarian principles or by a hardheaded desire to see the narcotic problem dealt with more effectively, we should look forward to the day when the rigidity and severity of the present laws are ameliorated. I personally favor such action on both humanitarian and practical grounds.

During recent years there has been a growing insistence that more extensive and more effective treatment programs, both institutional and non-institutional, for narcotic addicts be established. Responsibility for treatment has been carried almost exclusively by the Federal Government; since the U. S. Public Health Service Hospitals for narcotic addicts were opened at Lexington, Kentucky, in 1935 and at Fort Worth, Texas, in 1938. These hospitals have had a very low success rate, measured in terms of the percentage of addicts who do not relapse to the use of narcotics after return to their communities.

The chief factor that has made success well nigh impossible in the Federal hospitals is that over 80 per cent of those admitted are under voluntary commitments and can leave when they see fit. About half of them leave in less than 30 days against medical advice. The second factor is that the Federal program does not provide for continued supervision and treatment after release, nor do the communities to which they return provide such control and aftercare in a systematic and realistic sense. Patients who are Federal prisoners are sometimes under parole supervision when they are released, but seldom receive aftercare and treatment related to their former addiction. The final factor militating against the hospitals' success is that most of the voluntarily committed addicts come from New York and other large cities with a high addiction rate, and return to the same drug-infested environment from which they came.

The Public Health Service Hospitals should not be written off as total failures, however. Many addicts who relapse quickly and repeatedly gain insight which may result in their achieving abstinence as they get older or as other factors work the miracle of cure. Public Health Service personnel who serve tours of duty in these hospitals gain expert knowledge of addiction and expertise in treating addicts which few other persons, medical or otherwise, possess. Finally, the hospitals and the Public Health Service's Addiction Research Center, attached to Lexington, have done invaluable research.

The increased emphasis on constructive treatment recently, especially in the last five years, has brought about the passage of state civil commitment laws under which, at the discretion of the court, criminal proceedings against an addict charged with or convicted of a crime may be suspended and the defendant civilly committed to a correctional institution or a hospital. Under these laws voluntary commitment of addicts not charged with crimes is also possible. The two outstanding state programs for the treatment of addicts, those of California and New York, make use of the civil commitment process in both criminal and non-criminal cases.

The California program is under the State Department of Corrections and consists of two parts: the Treatment-Control Project, launched in 1959, and the Rehabilitation Program, operating under the civil commitment law passed in 1961 and amended in 1963 to stress its non-punitive purpose.

Under the Treatment-Control Project, now in its fifth year, selected addicts serving prison sentences are paroled under officers with small caseloads, are given Nalline tests at frequent intervals, if they relapse are returned to special institution units for further treatment without revocation of parole, and after about 90 days are restored to their former parole status.

The Rehabilitation Center Program is for two main categories of addicts: those in whose cases, at the discretion of the court, after conviction of either a misdemeanor or a felony (except crimes of violence) the criminal proceedings have been suspended and the person has been civilly committed to the Director of Corrections for treatment; and those who have not been charged with crimes but, on their own petition or that of relatives, law enforcement officials, or others, are civilly committed by the court. The California Rehabilitation Center itself is a former Naval hospital with a 2,300-bed capacity at Corona near Los Angeles. Civilly committed addicts, when released from the Center are under the same parole conditions as those described above. On September 30, 1963, there were 1,121 men and women at the Rehabilitation Center and 601 outpatients.

The New York State program, operating under the Metcalf-Volker Act, passed in 1962 and effective January 1, 1963, is administered by the State Department of Mental Hygiene. It provides for the suspension of criminal proceedings and the civil commitment of addicts arrested for crimes (not after conviction, as in California), at the discretion of the court; for the voluntary commitment of addicts not charged with crimes; and for certification of addicts for treatment by the court, sometimes as a condition of probation after conviction. The Department of Mental Hygiene has established special treatment units with a total capacity of 455 beds in six
of its state hospitals. Aftercare is provided by outpatient clinics in New York and other cities. On October 23, 1963, the program had 370 inpatients in the state hospital treatment units and 285 outpatients. There is need of additional facilities, especially in the New York area; the waiting time for admission to Manhattan State Hospital in New York City under a voluntary commitment is nine to twelve weeks.

While it is too early to estimate the present and potential future effectiveness of these programs, I am of the opinion that the greatest strength of the California program does not lie in its splendid facilities, high-grade personnel and realistic institutional program but in its program of supervision after release, with provision for quick detection of relapse and return for further treatment. Conversely, the greatest weakness of the New York program, in my opinion, is the lack of adequate control after release from the hospital treatment units. Experience at Lexington and elsewhere seems to me to have made the fact crystal clear that addicts cannot be turned loose after an institutional stay without a substantial period of supervision that is both strict and helpful. Control of this type is not a punitive measure, but is exercised as an essential to recovery from addiction.

The Federal and state governments cannot be expected to carry the whole burden of treatment programs for drug abusers, especially the post-institutional phases of control and treatment. For these phases, cities with adequate hospitals and other public health facilities must assume a large share of the responsibility, although Federal and state financial aid should be available where needed. The New York City Department of Health, for example, operates four strategically located rehabilitation centers for persons who have been through a hospital detoxification and treatment program. The Brooklyn Probation Department of the New York State Supreme Court (a trial, not an appellate court) is operating a 25-man halfway house, Daytop Lodge, under a 5-year grant totaling $390,000 from the National Institute of Mental Health.

In our larger cities, a variety of agencies under religious or philanthropic auspices are providing shelter or other forms of service to addicts both before and after hospitalization. Synanon utilizes group living and mutual help in its houses in several cities from California to Connecticut. Narcotics Anonymous is patterned after Alcoholics Anonymous. These are only a few of the many agencies and programs aimed at helping drug abusers achieve total abstinence.

One cannot leave the subject of treatment, discussed very briefly above, without reference to the idea held by most people that the so-called "British system" consists of clinics for the dispensing of narcotics to addicts gratis or at a low price. Actually, there is no British system: British laws leave the treatment of addicts to the medical profession as individual practitioners or in their affiliation with hospitals and other health agencies. Physicians and psychiatrists in the United States, partly because of the threat of possible prosecution which the Federal Bureau of Narcotics has for many years held over their heads, and partly because addicts are such difficult and unrewarding patients, are reluctant to accept them in individual practice. It is to be hoped that the statement of what constitutes legitimate medical treatment of drug addicts, published this year (1963 jointly by the American Medical Association and the National Academy of Sciences—National Research Council at the request of the President's Commission), will encourage increasing numbers of medical practitioners to accept addicts as patients.

As for the so-called "ambulatory clinics" for the dispensing of free or low-priced narcotics to addicts, my life experience makes it impossible for me to endorse this proposal in the form in which it is usually made. This is not because clinics in the 1920's were allegedly a complete failure; many things that with our increased knowledge could be done successfully today, failed in the past. My opposition is based on the fact that it is unrealistic to expect the general run of addicts, especially the huge majority that live in the slum areas of our large cities, to conform to an orderly process of gradual reduction unless they are in a drug-free environment. It is possible that the outpatient clinic method would be successful with carefully selected and highly motivated addicts, and I would like to see it tried on that basis. The AMA-NRC report referred to above advocated such a plan on an experimental basis but on the basis of present knowledge, opposed "general, non-experimental ambulatory treatment services." This was the position taken by the American Medical Association and the American Bar Association in their joint report in 1959.

In conclusion, I must refer to several important subjects of which limitations of time prevent discussion: the lack of complete and valid statistics on the number of addicts, and the publication to the world of national statistics which are obviously inaccurate and of local statistics which are frequently based on mere guesswork; the unavailability of qualitative data on addicts of the type health and welfare agencies compile, a situation which can be corrected only by establishing a national reporting system with a Federal center to which such agencies can feel free to report confidential data; the many areas in the entire problem of narcotic and drug abuse where knowledge is lacking; the need of a comprehensive research plan to insure steady extension of our knowledge; and the need of extensive and intensive educational programs aimed at students from the high school level up, at the general public, and at the professions which deal—or should deal—with various phases of the problem: doctors, psychiatrists, educators, lawyers, clergymen, social workers, law enforcement personnel, legislators, and so on. We have dealt with this complex and baffling problem too long in partial or complete ignorance, in fear and prejudice, in apathy and indifference.
Lie Detectors: Sleuthing By Polygraph Increasingly Popular; Claims Of Accuracy Are Unproved

Elinor Langer

According to information turned up by a House Government Operations subcommittee, the American Battle Monuments Commission does not use lie detectors. Neither do the Indian Claims Commission, the Federal Aviation Agency, the St. Lawrence Seaway Development Corporation, or 35 other agencies, including the National Science Foundation and the Smithsonian Institution.

Nineteen major government agencies, however, have found these controversial gadgets handy for a variety of security, criminal, and other misconduct investigations, and for personnel screening—so handy, in fact, that last year they administered the tests 19,122 times. (That figure excludes the thousands of routine pre-employment tests given job applicants by the CIA and the National Security Agency, as well as other tests administered by these sensitive agencies. The numbers are classified.) Even the figures do not reflect the true veneration in which the lie detector or polygraph is held. It was announced last February, for example, that the Pentagon had taken to using portable lie detectors in Vietnam, to flush out Viet Cong agents infiltrating the government forces. The model in question, about the size of an electric razor, is far less complex than standard equipment; it is regarded, even by real proponents of lie detection, as better suited to parlor games than to criminal interrogation. And when there was a leak to the press during congressional investigation of the TFX award last year, the impulse of the Pentagon was to make even some very high officials submit to a lie detector test to discover who dunit.

In the opening subcommittee hearings 2 weeks ago, witnesses representing both the lie detector industry and the Pentagon—the heaviest known government user of lie detectors—could come up with no statistics, studies, or figures to indicate why they believed the instrument was so satisfactory. Eleven years ago the Atomic Energy Commission conducted one of the few studies of the lie detector yet made—an analysis of its utility in enhancing the security of AEC operations at Oak Ridge. Despite the claims of the polygraph operator at Oak Ridge that its results had been sensational there, the commission concluded that "such a program could be expected to result in only an indeterminate marginal increase in security beyond that which is currently afforded by established AEC procedures for personnel, physical and document security. Against such indeterminate marginal increase in security, consideration was given not only to the substantial dollar costs of a polygraph program but also the intangible costs in employee morale, personnel recruitment, etc. It was concluded that such costs outweigh the benefits which might accrue to the AEC security program at this time."

Subsequently, with no apparent bad consequences, the AEC has been very sparing in its use of the machine, conducting only one lie detector test last year. The space agency, too, has used the machine infrequently—only twice in its history. Other agencies, however, have been far less restrained; the Army alone conducted 12,500 tests last year; the FBI, 2,314. In private industry, also, use of the polygraph is growing; no exact figures are available, but the major firms that specialize in polygraph examinations say their business is nearly ten times what it was a decade ago. Although the chief use in business is still, as in police work, investigation of specific incidents or individuals, another kind of use more akin to that of government security programs is also growing up. Many businesses now use lie detectors for routine screening of all job applicants; others use it as a prophylactic, making periodic checks on the honesty of their employees. This enthusiasm for the polygraph is not shared by courts, who have generally ruled the results of lie detector tests to be inadmissible as evidence.

Watching the Watchers

The circumstances of use of the lie detector are extremely unpleasant. It appears to be standard practice, both in and out of government, to assign watchers to watch the watchers: interrogations take place in rooms equipped with two-way mirrors and special recording equipment so that the examination is overheard by others, invariably without the subject's knowledge. Within the government, practices vary; in some agencies the results of lie detector examinations become a part of the subject's permanent record; in others, they are destroyed. Most agencies claim that the results are considered as only one part of a total investigation, and that decisions affecting a person's welfare would never be made on the basis of a lie detector test alone. While favorable polygraph results can no doubt be outweighed by other evidence, it is far harder to overcome the suspicions arising from a polygraph finding of deception.

In some agencies refusal to take a test may be interpreted as indicating guilt or bad character; others claim that refusal is accepted without prejudice to the subject. Though most practitioners would deny it, there is no doubt that at least one use of the lie detector borders on

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* Reprinted from SCIENCE, April 24 1964. By permission of the American Association for the Advancement of Science.
** Use of Polygraphs by the Federal Government: A Preliminary Study, by the Foreign Operations and Government Information Subcommittee. The chairman of the subcommittee is Representative John Moss (D-Calif.)
intimidation, on the hope that fear of the machine will induce confessions. One chapter heading of the latest book by Fred Inbau and John Reid, two of the leading advocates of the polygraph, reads "Ask the Subject Whether He Is Willing to Take a Lie-Detector Test. The Innocent Person Will Almost Always Steadfastly Agree to Take Practically Any Test To Prove His Innocence, whereas the Guilty Person Is More Prone to Refuse to Take the Test or to Find Excuses for Not Taking It, or for Backing Out of His Commitment to Take It."

The amazing thing is that all these practices have been developing on little more than the claims of the polygraph promoters that the tests are extremely accurate. Congress is usually perfectly willing to let the executive branch look foolish and even extravagant (the 512 polygraphs known to be owned by the U.S. cost about $425,000; the annual salaries of polygraph operators come to a bit more than $4 million; each polygraph examination is thought to cost between $20 and $30 dollars). But more complaints from constituents have apparently been coming in, citing use of the instrument in ridiculous circumstances; the AFL-CIO, which has been influential in getting laws passed in Massachusetts, California, Oregon, and Alaska forbidding the use of the lie detector in personnel screening, is extremely interested in further limiting its use; and, finally, all this fuss over a gadget many people regard as no more efficacious than sheep's entrails for divining deception has begun to make some congressmen a little nervous. A feeling is beginning to emerge that the possible dangers of lie detectors may exceed their utility, and if no evidence is presented that proves otherwise, some curbs on their use may be forthcoming.

Sleuthing

Standard lie detectors are combinations of three types of scientific instruments: a pneumograph, which records breathing patterns; a galvanograph, which records changes in the skin's resistance to electricity; and a cardiosphygmograph, which measures pulse rate and changes in blood pressure. These are attached to a fourth device which moves the chart paper under recording pens at a regular rate and produces the final record. As a measure of physiological reactions, the instrument is generally thought to be reliable; in fact, it is used by NIH and other research institutions in many animal experiments and other studies. Its use as a lie detector, however, rests on the assumption that attempts to deceive will be accompanied by distinctive physiological changes that are recorded by the machine and interpreted by the examiner.

The general line taken by most polygraph supporters (these include the handful of manufacturers, officials of the four U.S. schools of instruction in lie detector techniques, and the police and government departments, and businesses, who use the polygraphs) is that the examiner, not the instrument, is the actual "lie detector." According to a statement by the head of the Keeler Polygraph Institute in Chicago (a major polygraph school associated with one of the major polygraph producers), "the polygraph is a scientific, diagnostic instrument. Through the proper use of the polygraph, the properly trained, skilled examiner can diagnose truth or deception just as the skilled roentgenologist can diagnose hair-line fractures or the internist can diagnose aortic regurgitation. No instrument can diagnose anything by itself; neither can the untrained or unskilled person diagnose even with the aid of instruments."

Schism in the Ranks

This statement would be defended by virtually all the advocates of scientific lie detection. Predictably, however, the advocates are divided—sometimes rather bitterly—on what constitutes the all-important proper training. The Keeler Institute runs a course of several weeks' duration; so does the Army, which trains a large proportion of the government's polygraph operators but relies on techniques developed by private practitioners. Both these schools feature a combination of academic subjects (psychology, physiology, and law) and practical training in the mechanics and operation of the machine. However, another Chicago outfit, John Reid and Associates, emphasizes experience as well. Reid believes that a 6-month program is essential, and fears that quickie courses are giving scientific lie detection a bad name. Reid and Keeler also favor slightly different methods of questioning the subject: Reid "interrostats," Keeler "interrolates." The differences are vital to them but difficult for an outsider to grasp. All proponents of scientific use of the polygraph by trained operators are united in their disapproval of the quacks and charlatans who, in the absence of state and federal regulation, are permitted to purchase a machine, along with a how-to-do-it handbook, and set themselves up in business; a fairly large proportion of the "lie detectors" in business today are thought to fall into this category. Business Week reported in 1960 that one self-trained examiner who advertised polygraph tests said, "I have lie detectors to back me up but usually I can look applicants straight in the eye and tell whether they're lying or not."

In addition to training, defenders of the polygraph stress integrity and maturity of the examiner as essential to accurate findings. They readily admit that fear, anger, and other emotions, as well as sickness, drugs, or alcohol, can influence the examination, and they insist that in such cases the reliable operator either will not conduct the test or will re-test the subject enough times to validate his findings. How many polygraph operators measure up to this ideal is an open question. Both in and out of government, standards vary; and maturity and judgment are slippery qualities to measure. What is measurable is the fact that although in some government agencies polygraph operators are highly skilled and high-ranking employees, in others they are persons with very little experience or status. It would not be impossible, for example, to find instances of a person's being examined for truthfulness by a 23-year-old high school
graduate making under $5000 a year.

More important than the problem of qualifications is the problem of evidence of accuracy, even when the machine is in the hands of a trained examiner. Promoters of the polygraph have frequently made claims of over 95-percent accuracy in detecting deception. John Reid told the House subcommittee that his own organization had a capability of "upwards of 90 percent decisiveness." Reid's estimates, however, turned out to rest on very doubtful reasoning. It was based on a review of 4280 cases of subjects who had taken lie detector tests. Of the 4280, 2759 (64.5 percent) were reported as truthful, and 1334 (31.1 percent) were reported as not telling the truth; in 187, or 4.4 percent of the cases, the results of the polygraph examination were indecisive. Because a decision had been reached in 95.6 percent of the cases, the study was interpreted to mean that the machine was 95.6 percent conclusive in its determinations. It appears, however, that few of these determinations were subsequently corroborated. Of the 1334 people judged not to be telling the truth, the Reid organization later interrogated only 791: of these, only 486, or roughly 35 percent, ever confessed. Similarly, of the 2759 judged truthful, innocence was established for only 323, or in 11.7 percent of the cases. Representative Henry Reuss (D-Wis.), one of the committee members most skeptical about lie detectors, did his own arithmetic. Reuss compared the total number of confirmations of the instrument's diagnosis (819 in all—323 confirmed innocent plus 496 confirmed guilty) with the original 4280 subjects and came up with the conclusion that the lie detector was only 18.9 percent accurate in its findings. Other witnesses at the hearings had their own figures of accuracy: the Navy, for example, held that the instrument was 70-percent reliable. But since no evidence was brought forth to support any of these claims, they had more the appearance of mystical revelation than of reliable fact.

Not only is there a lack of evidence to support claims that the machine is reliable, there is some positive evidence that it confuses more than it clarifies. In an article in the May 1963 issue of the _American Journal of Psychiatry_, called "Unconscious Motivation and the Polygraph Test," H. B. Dearman and B. M. Smith reported the case of a young bank vice-president referred to them for psychiatric aid. During the course of a routine polygraph examination of all bank employees, the patient had reacted violently to the question, "Have you ever stolen any money from the bank or its customers?" The patient denied having taken money, but in four tests the reaction was consistent, and finally, convinced that he could not "fool the machine," the patient broke down, confessed that he had stolen money from the bank, and provided a description of how he had done it. When the bank's books were audited, however, it was discovered not only that he had not used the method that he had stated but that no shortage of that amount had occurred in his branch since he had been employed there. The explanation for the false confession, as developed by Dearman, was that, for reasons deep in his past, the patient felt strong guilt feelings toward his wife and mother, both of whom were customers of the bank, and with both of whom he had some financial involvement, about which he also felt guilty. Dearman and Smith assumed that the identification of the patient's wife and mother with the phrase "customers of the bank" was responsible for the patient's reaction. They emphasized that many combinations of psychological factors, other than conscious deception, could produce false results on the polygraph, and they concluded that "the application of . . . the technique is fraught with too many variables and sources of error for it to be used as it is currently being used in business and industry. Its use in criminal investigations and in other situations involving the commonweal (such as screening employees for sensitive government positions) should be carefully and continually scrutinized lest we find that George Orwell's _1984_ is upon us."

Nonetheless, though skepticism may be growing in some quarters, the device continues to have some strong advocates. To quote from an endorsement supplied the manufacturer of Keeler Polygraphs by the sheriff of Ouachita Parish, Louisiana, "The lie detector's use in law enforcement is becoming more widespread every day, and we here in the Ouachita Sheriff's Office feel that its effective use as a scientific aid is limited only by our imaginations, and its application is unlimited."

(Readers are invited to submit articles or notes in support or rejection of the position taken by the author in the foregoing article.)

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**CHICAGO YOUTH DEVELOPMENT PROJECT**

The Institute for Social Research, of the University of Michigan (Ann Arbor), has issued _The Chicago Youth Development Project_, a descriptive account of the action and research programs which it has been conducting jointly, for the last three years, with the Chicago Boys Club under a Ford Foundation grant. The report written by Hans W. Mattick, director of the CYDP, and Nathan S. Caplan, associate director of research for the Institute, explains how the project came about, what its aims are, and how its staff functions.

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**WANT TO BET?**

The Baltimore Criminal Justice Commission has issued its _Report on Legalized Gambling_ in Maryland, throughout the United States, and abroad. It offers factual material both for and against legalized gambling as taken from Maryland's experience with lotteries from 1793 to 1860 and from her present efforts to establish another one. Copies of the report are available at $1.25 each from the Baltimore Criminal Justice Commission, 407-A, 22 Light St., Baltimore 21202.
Toward Justice for the Poor: The Manhattan Bail Project

The practice of depositing money or collateral—better known as bail—to obtain the release of an accused person pending his trial was an accepted custom in early Anglo-Saxon law, as it was in the American colonies, and it was perhaps natural that the authors of our Bill of Rights should accept it too. The only problem, to those who wished to safeguard the rights and liberties of coming generations of Americans, was to prevent the imposition of "excessive" bail.

But, as thoughtful minds have examined the effects of this practice on the dispensing of justice, they have observed that bail is generally a door to pre-trial liberty for the rich, to pre-trial detention for the poor.

Those who can afford bail are free: to earn their wages and support their families, to assemble their witnesses and prepare their defenses, to lead their lives.

Those who cannot afford bail, on the other hand, have no alternative but to await trial from a jail cell. For these persons poverty is, in fact, a punishable offense.

This is not the only unjust feature of the bail system. Sometimes the accused person has money and collateral and still is unable to purchase a bail bond, simply because the bondsman refuses to write it. It is the professional bail bondsman, a private businessman, and not the judge, who usually decides when a defendant shall go free and when he shall remain in jail.

In Fannell v. United States, a recent District of Columbia Circuit Court decision, Judge Skelly Wright commented on this practice:

"...the effect of such a system is that...professional bondsman hold the keys to the jail in their pockets...the bad risks, in the bondsman’s judgment, and the ones who are unable to pay the bondsman's fees, remain in jail. The court and the Commissioner are relegated to the relatively unimportant chore of fixing the amount of bail..."

The bondsman is responsible to no one and is subject to no review. He can refuse to write a bail bond whenever he chooses—because he "mistrusts" a defendant, because he dislikes members of a given minority group, or because he got up on the wrong side of the bed. A bail bondsman is not obliged to have valid or sensible reasons.

An Approach to the Problem

For the first time in this country alternatives to the bail system are being seriously examined in an experiment known as the Manhattan Bail Project. Launched in October 1961 by the Vera Foundation, in cooperation with the New York University School of Law and the Institute of Judicial Administration, the Bail Project is a three-year demonstration program designed to bring about improvement in bail administration. For the past two years the Project has been assisted in this work by a $110,000 grant from the Ford Foundation.

The Manhattan Bail Project is based on the hypothesis that the courts will be willing to grant release on recognizance—release on one’s honor pending trial, called "pre-trial parole" in New York—instead of setting bail if they can be given verified information about a defendant's reliability and his roots in the community. In the past, courts have rarely had access to this kind of information in making decisions about bail.

Members of the Vera Foundation’s staff set out planning the Project with great care. Discussions were held with judges, prosecuting and defense attorneys, city officials, and professors of constitutional law. Specific proposals on procedure were examined against the experience of these persons who are directly involved in the judicial process. The Project itself took shape around the findings of this preliminary research.

How the Project Works

The procedures that were worked out are quite simple:

1. When an arresting officer brings an accused person into the detention pens adjoining Manhattan’s Criminal Courts, a law student checks the defendant’s previous criminal record and the current charge against him.

2. If his record indicates that he is eligible for bail, and if he has not been charged with crimes such as homicide, narcotics offenses, or certain sex crimes—offenses excluded from the experiment because of the special problems they pose—the accused is interviewed to determine whether he is a likely parole risk. The defendant is asked what his job is and how long he has held it, whether he supports his family, has contact with relatives in the city, and is in good health.

3. A point system helps evaluate the answers to the questionnaire, and if the accused appears a good parole risk, the above information is verified by phone—or in the visitors’ section of the courtroom. Vera staff members speak only with those persons whom the accused has agreed should be consulted. An interview generally takes 10 minutes and verification an hour.

4. If the case is still considered a good risk after verification, a summary of the information is sent to the arraignment court, where a recommendation that the defendant be released on his own recognizance is submitted to the judge.

5. When a defendant is so released, Project staff members notify him in writing of the date and location of subsequent court appearances. If the parolee is illiterate, a fact indicated by the questionnaire, he is telephoned as well as notified by letter. If he is literate in a language other than English, he receives a letter in his native tongue. Often a friend or employer agrees to...
help get the defendant to court. If so, this person is notified as well.

6. During the first year of the Project, a control group was established. Law students checked each questionnaire number against a random number chart to determine whether the case was experimental or control. If the case fell in the control half, the law student withheld the parole recommendation. If the case fell in the experimental half, the law student handed the recommendation to the judge. (After the first year, the control group was eliminated in order to allow more widespread use of recommendations.)

Results of the Project

During the Project's first 30 months in the Manhattan courts, 2,300 defendants were released on their own recognizance upon the recommendation of Vera staff members.

Ninety-nine per cent of these defendants returned to court when required; only one per cent failed to appear.

During this same period, about three per cent of those freed on bail failed to appear in court. Thus, it appears that verified information about a defendant's background is a more reliable criterion on which to release a defendant than is his ability to purchase a bail bond.

The control group demonstrated how accused persons who are considered good risks fare when they are not recommended for pre-trial parole. While the court granted pre-trial parole in 60 per cent of the Project's recommended cases, it did so in only 14 per cent of the parallel cases in the control group. In other words, judges paroled four times as many accused persons with the aid of verified information.

Of the first 750 parolee disposions, 53 per cent were either acquitted or had their cases dismissed. Forty-seven per cent were found guilty, and of these only one convicted person out of six was sent to prison.

Since this ratio of favorable dispositions among parolees is higher than among criminal prosecutions generally, the results of the Project are suggesting a startling conclusion: that determinations in court of a defendant's guilt and of his sentence are influenced by whether he enters the court from jail or from the street. This highly significant possibility is being investigated further by the Bail Project's staff.

The Widening Effects of the Project

The Manhattan Bail Project is having an effect on judicial practices and community attitudes in New York and in other U.S. cities.

In January 1964 the Board of Estimate of the City of New York allocated $181,600 to enable the Office of Probation to take over from the Vera Foundation the work of the Manhattan Bail Project and to extend the pre-trial parole operation permanently to the criminal courts in the Bronx, Queens, Brooklyn, and Richmond, as well as in Manhattan.

Other communities, dissatisfied with the way bail is administered, have launched pre-trial parole experiments modeled on the Manhattan Bail Project. These include Des Moines, Chicago, Los Angeles, St. Louis, the District of Columbia, and Nassau County, New York. Inquiries come in from cities throughout the country.

As an outgrowth of the work of the Manhattan Bail Project the Criminal Law Section of the American Bar Association has established a Committee on Bail which at present is carrying out studies in eleven cities. These are Baltimore, Boston, Chicago, Detroit, Los Angeles, Miami, Minneapolis, New Orleans, Philadelphia, San Francisco, and St. Louis.

Perhaps the most significant development is the National Conference on Bail and Criminal Justice, sponsored by the Department of Justice and the Vera Foundation under a grant from the President's Committee on Juvenile Delinquency and Youth Crime. Judges, police, prosecutors, defense attorneys, legislators, and other interested persons from the 50 states will participate in the Conference, to be held in Washington, D.C. in May 1964. In preparation for the Conference, data from the Manhattan Bail Project and the other pre-trial parole programs are being tabulated and analyzed; surveys on bail practices have been conducted in 25 jurisdictions across the nation; and comparative studies are being made of pre-trial release procedures in other countries.

Additional studies on connection with the National Bail Conference concern such areas as the role of the bail bondsman, the youthful offender, the crediting of pre-conviction jail time against sentence, and various non-pecuniary alternatives to bail which will ensure the defendant's appearance in court (for example, release by day and jail by night).

Plans for the Future

The Manhattan Bail Project has shown that many persons charged with misdemeanors and felonies can be successfully released without bail pending trial. A logical next step, and one allowable under existing law in New York City, is to experiment with an increased use of the summons in place of the arrest process in certain offenses and misdemeanors. The use of the summons further extends the scope of pre-trial liberty. One great advantage accrues to the accused who is summoned: if acquitted, his record is free from the stigma of arrest. A record of arrest narrows job opportunities, restricts access to public housing, hurts one's reputation, and increases the likelihood of severe treatment if arrested in the future. Furthermore, in cases initiated by a summons the question of bail is circumvented. Vera Foundation's next venture will be a three-year Manhattan Summons Project to be conducted in cooperation with the courts and the New York City Police Department.

Other plans for the future include an evaluation of the Manhattan Bail Project as well as the coordination of other pre-trial release projects now in progress. A
field coordinator will visit cities, law schools, and bar associations interested in setting up their own pre-trial release programs, and will give guidance when requested.

**Putting the Law to Work for the Poor**

The poor generally tend to view the law as an instrument which society uses impersonally and often cruelly against them. They frequently misunderstand and mistrust the law, and consequently lose its benefits. The poor should be helped to realize that the law can work in their interest. This realization is essential if impoverished Americans, frequently living outside the awareness of the rest of society and outside the protective mechanisms of the law, are to be given chances for better lives.

To this end, the labyrinth of laws, regulations, and procedures of government and service agencies needs to be reexamined. Some regulations and procedures are required, others are merely permitted by administrative order; some are mandatory by statute, others grow from an individual's interpretation of a statute. Legal analysis can reveal situations where flexibility is possible and where adjustment or a new concept can be introduced in the interest of equal justice for all.

*For further information write to:*

**Vera Foundation**

30 East 39th Street, New York 16, New York

"Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted."

**Eighth Amendment to the Constitution of the United States**

**PROJECT ON LEGAL SERVICES FOR POOR**

Mobilization for Youth maintains that the law, in the broad sense, is not fulfilling its responsibilities to poor people.

This is the thesis of a report made public by James E. McCarthy, administrative director of the experimental community development project designed to strike at the roots of juvenile delinquency on the New York Lower East Side. The report outlines plans of a Legal Services Unit which has begun a demonstration of ways in which the law may be made a more useful instrument for poor people.

Priorities of the unit, established January 1, include:

1. Examining the impact of social welfare programs (welfare, unemployment insurance, old age assistance, housing and certain educational programs) on the legal needs of poor people.

2. Experimenting with methods to promote equal justice under criminal law, including legal representation in police stations and the development of new roles for defense attorneys in criminal proceedings.

3. Establishing relationships with the Legal Aid Society in civil law areas.

The unit will also undertake an educational program for Mobilization social workers—and other social workers and community leaders—to increase the sensitivity of such persons to legal aspects of problems faced by their clients. It will also attempt to develop new methods of facilitating joint cooperation and a two-way exchange between lawyers and social workers.

Edward V. Sparer, director of the four-man unit and author of the report, described the new Mobilization program's significance as follows:

Lawyers and others are becoming increasingly aware of the enormous gap between the legal rights and needs of all the people and the very limited legal services which are in fact available to the poor. So long as the present situation continues there will not be the equal justice we all demand. The Legal Services Unit has national significance as an experiment in the ways and means of eliminating the differences between law for the rich and law for the poor. As such experiments spread and become permanent we will have achieved a legal revolution.

Michael Sovern, professor of law at Columbia University and acting chairman of the Law Faculty Policy Committee of the Legal Services Unit, commented as follows on Columbia University's interest in the unit:

It is a sad but striking fact that only a small percentage of New York's lawyers represent the poor. Mobilization's Legal Services Unit is dedicated to finding and implementing means of providing the underprivileged with essential legal services not now provided by others. The ten law professors who have joined the Legal Services Unit feel privileged to assist in this work.

Aside from Mobilization for Youth, only two other organizations in the city (the Legal Aid Society and the New York City Bar Association) are empowered by the courts to engage in legal aid assistance.

Mobilization, operating as an action-research demonstration project since the fall of 1962, is financed by the Federal and city governments and by the Ford Foundation. Its components, in addition to the new Legal Services Unit, include employment and training, education, community organization, services to individuals and families, and services to groups of youngsters.

**PAPERS FOR 1965 INTERNATIONAL CRIMINOLOGICAL MEETING SOUGHT**

The International Society for Criminology will hold its 5th International Criminological Congress at Queen Elizabeth Hotel, Montreal, Aug. 29-Sept. 3, 1965. Theme: "The Treatment of Offenders." Those interested in submitting papers should mail them to Fifth International Criminological Congress Secretariat, 55 Parkdale Ave., Ottawa 3, Ontario, Canada, before Oct. 1, 1964.

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Robert Bruce House: An Experimental Program

Harvey W. Trimmer, Jr.*

Since one of the most important features of the Robert Bruce House program is that of "continuity of treatment" from the institution to the community, it is perhaps most appropriate to examine the significant features of a "halfway house" program which is located entirely within a state department of correction in New Jersey, the Department of Institutions and Agencies.

The formal aspects of the Robert Bruce House program begin with the initial referral, whether that be, by the individual himself, or by the institution classification committee, an institutional therapist, or correctional officer, or parole officer, or even by another inmate. Should he meet the initial criteria (which is discussed later) for the House his needs and goals are then discussed with him in some detail. In addition, further discussions are usually held with the institutional parole officer and perhaps with his therapist, or other members of the inter-disciplinary treatment staff of the institution. Following this, a recommendation is then returned to the classification committee for their approval or rejection. If approved, the inmate is immediately assigned to one of the institutional therapy groups conducted by the personnel of the House within the institution. These groups are reserved for prospective House residents and are conducted once a week on an ongoing basis. At this writing three groups are being conducted within the institution itself, while another group is held at the New Jersey State Neuro-psychiatric Institute at Skillman which houses a minimum-security detail of the institution and yet another is held at the New Jersey State Colony at New Lisbon, which houses a separate facility of the institution solely for first offenders. Thus planning and treatment for the individual is started perhaps a year or more in advance of his anticipated release on parole. Consequently, a very real "continuity of treatment" has been established, and perhaps equally importantly, a meaningful relationship is established and nurtured whereby the inmate is enabled to establish realistic goals and, in addition, a rapport takes place wherein he is enabled and encouraged to feel that there is someone who really cares about his progress and his future.

The question of selectivity of intake has also occupied many writers in this area of correction.** At present, the criteria for the Robert Bruce House program is as follows:

(a) The prospective resident will have lived in, or have been committed from the five county area immediately surrounding the House. (This area contributes about 50% of the institutional population.)
(b) The prospective resident must enter the program voluntarily and only after agreeing that he will actively engage in the treatment program of the House, continuing the therapeutic process begun at the Reformatory.
(c) While at the Reformatory, he shall have been in some phase of the treatment program which might include group therapy, group counseling, or individual attention.
(d) He must be a "placement case" from the Reformatory; that is, he has no family or close relatives to whom such a parole plan would represent a real detriment to the individual's eventual adjustment to the community.
(e) He must be employable and also be willing to actively seek employment with the aid of the House Staff. Once he has secured employment he is expected to maintain a good employment record.

In the light of the above criteria, it is readily observably that the House has a rather gross intake selectivity.

We took a rather careful look at the men who had come through the Robert Bruce House program from its opening in July of 1962 through December 1, 1963. The statistics will be discussed somewhat later, but of our failures we found it possible to set up certain broad categories:

(a) Violations of Parole Rules (changing addresses frequently and/or moving out of state). In general, these were men who were extremely dependent, lacking any sense of responsibility, and quite immature, with ages in the high teens or low twenties.
(b) Breaking, Entering, Larceny, Assault. In general, these men were extremely anxious, hostile, aggressive, acting out, verbal individuals.
(c) Alcoholics and Drug Addicts. In general, these individuals were again extremely dependent and withdrawn, with the inability to face either themselves or their environment, and badly in need of individual intensive psychiatric services.
(d) Alcoholics who committed Breaking, Entering, and/or Larceny while under the influence. In general, these individuals come within the descriptive category of section (e) with the major difference being their acting out rather than withdrawing.
(e) Miscellaneous: One man returned for larceny of a motor vehicle which did not appear to fit in any of the above categories.

While the above categories are extremely numerous, at least, and certainly merely suggestive at this point, they do seem to suggest that a "halfway house" program is not the answer for the dependent, withdrawn, immature individual, whether he be an alcoholic, an addict, or simply lacking maturity and a sense of responsibility. These very incomplete, early results seem to offer some indications that a more rigid, structured environment, and perhaps more intensive psychiatric services, may be needed for this type of individual. Certainly much more
research is needed in this area before any final answers may appear.

The question of over-dependency upon the House has also concerned the staff from time to time so that continuing research is carried on with regard to length of stay as compared with maximum benefit or exposure to the program, with some rather interesting results. Of the sixty men who have gone through the House since its inception, the average length of stay has been 79.4 days or approximately 11\(\frac{3}{4}\) weeks. The median stay has been 69 days or approximately 9\(\frac{1}{2}\) weeks. Expressing this somewhat differently, over one-half of our residents stayed in the program from three to eleven weeks, while another one-quarter stayed from sixteen to twenty weeks. The shortest stay was less than one week while the longest was just six months.

As we further examined our statistics, we discovered that approximately 15\% of our residents had stayed past the established four-month expiration deadline. However, a closer examination established the extension to be a matter of a few days or a week in many cases, so that the men who might be considered serious examples of over-dependency, however, there were also previous indications of institutionalization overdependency as well.

Recognizing this as a possible significant area of concern, however, the resident staff has attempted to provide ample opportunity for ventilation of feelings regarding the House or regarding personal problems. The group meetings frequently deal with these problem areas, as has a renewed emphasis by the staff on providing a milieu which view the House as temporary residence only, as well as offering every encouragement for future planning as quickly as practical and meaningful.

It also appears significant that at least 20\% of the "graduates" of the House have utilized the resident staff counseling services during periods of subsequent stress. The resident staff is well aware that quite frequently a return for a brief visit or an evening meal will mark a crisis situation easily ascertained after a few words in private, or perhaps even sought out spontaneously. Every sort of situation from help in finding a new job to an incipient return to crime, or even a renewed residence in the house for a week or two has been handled by the residential staff through on-the-spot "crisis" counseling.

Having examined many of the facets of operation and areas of concern with regard to the operation of a "halfway house" program, the question remaining is that of success or failure of such a program. Does it work? Is it successful?

The House has seen a success rate over the past seventeen months of operation of approximately 62\% as compared to the overall Reformatory rate of 50\% to 20\%. This means that so far the Robert Bruce House program has shown a 300\% gain in reducing recidivism rates, or expressed differently, recidivism has been reduced by two-thirds. While the above figures are admittedly tentative, they would seem to answer the question concerning the success of a "halfway house" program with a resounding reply in the affirmative.

Publications Received

Cast the First Stone, Judge John M. Murtagh and Sarah Harris. McGraw-Hill. $1.95 (paper).


Please notify the secretary promptly on change of your address, affiliation, position, or title.
Criminal Responsibility in Socio-Psychological Perspective

Gerhard J. Falk*

In 1843 the secretary to the then British prime minister, Robert Peel, was killed by McNaghten who believed that the secretary was Peel himself. At his trial, McNaghten revealed that he considered himself persecuted by Peel and also showed various other signs of emotional instability. As a consequence, the jury returned a verdict of "Not guilty by reason of insanity," basing its opinion on the view that McNaghten could not distinguish between "right and wrong."

Since that day, the "right and wrong" test has been criticized and defended, but seldom changed in any American jurisdiction. With the rise of psychiatry, the rule has become particularly outdated and unworkable. This is mainly true because psychiatrists are hired by both the prosecution and the defense to testify to a concept having no basis in reality. Lawyers speak of "insanity," a concept foreign to psychiatrists, since such a terminology implies categories which cannot be used to describe any group of persons or any person. Lawyers have often criticized psychiatrists for vagueness in testimony concerning the emotional condition of the accused, yet no terminology could be more vague, more ambiguous and less meaningful than the term "insanity."

That this is true is evidenced by the differences in state law concerning commitment to state hospitals. If "insanity" could be accurately determined, then such a category could serve as a guide for such commitments. But since it is only a matter of legal opinion as to who is or is not insane, this so-called condition depends much more on the prevailing state of knowledge concerning mental disorder than on any definable behavior or condition in offenders or suspects.

Even if a specific condition of mind, such as ability to know "right and wrong" were identifiable, it would still be necessary to ask why one particular condition of mind should be accepted as the cause of some behavior if the only way of diagnosing that condition is by reference to the behavior in question. The attempt to convince a jury that a defendant did or did not have the ability to distinguish "right from wrong" depends on the skill of the attorneys on each side of the legal contest in presenting their case. In order to enhance their arguments, lawyers hire psychiatrists who then testify in a manner suitable to the needs of their employers. Consequently, psychiatric testimony becomes discredited since psychiatrists disagree concerning the meaning of "right and wrong" and also are not trained or interested in defending a principle which has no meaning to them.

Other Tests of Responsibility

An early attempt to evade the difficulties presented by the McNaghten rule was made by the New Hampshire legislature who held over ninety years ago, in 1870, that "one is not criminally responsible for an act resulting from mental disease or defect." In 1854 the District Court of Appeals in Washington ruled that the law cannot define disease and therefore limited its decision to the finding that the defendant, Durham, was not criminally responsible if "his unlawful act was the product of mental disease or mental defect" without however defining the nature of mental disease or illness. Judge David L. Baselen's decision was rejected in almost all courts in the country and only adopted as legislation by Maine and the Virgin Islands. The Durham decision has been attacked on the grounds that it leads to too many acquittals because the jury cannot determine how much of a "disease" an accused must have suffered before being excused for his act. Consequently, a District of Columbia law required that persons acquitted by reason of insanity have to be incarcerated in a hospital. This practice has led to long hospital stays for persons who otherwise might have gone free in a very short time.

The British Homicide Act requires that a person charged with murder shall have the charge reduced to manslaughter if his mental responsibility is substantially impaired. Rejected in America by the U. S. Supreme Court in the Fischer case (325 U. S. 463) this rule was based mainly on a one hundred year old Scottish example.

This diminished responsibility rule has been criticized on the grounds that the jury often refuses to accept the findings of psychiatrists as to the mental condition of the accused and that crimes of the same or lesser magnitude are punished severely if the accused is not mentally handicapped. This is believed to be unjust and constitute inequality before the law.

Finally, Chief Judge John Biggs, Jr. of the Third Circuit Court of Appeals ruled in 1961 that one Currens should be judged concerning his "substantial capacity to conform" to the requirements of the law he allegedly violated. By thus tying mental condition to the act of the accused and using the word "substantial," the Currens decision represents the latest attempt to gain more flexibility than McNaghten allows. The question then however, still remains as to what is or is not "substantial," thus changing only the semantics but not the substance of the problems involved in determining criminal responsibility.

The Sociological Approach

The Sociological approach to the issue of "right and

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wrong" concerns itself with the situational factors which define these concepts. Chief among the sociological explanations of these factors is the so-called "culture conflict" view 12 which is based on the finding that criminal behavior rests on different conduct norms than non-criminal behavior. Therefore, "for every person ... there is from the point of view of a given group of which he is a member, a normal right and an abnormal wrong way of reacting; the norm depending upon the social values of the group which formulated it." 13

A further explanation of this approach is the reference group theory developed by Sherif, Newcomb, Merton and others. 14 The sum of this view is that there are "processes through which men relate themselves to groups and refer their behavior to the values of these groups." 15

Both the culture conflict approach and the reference group theory indicate that even an emotionally sound person may behave in a criminal or illegal fashion and not know "right from wrong" in the sense of the middle class judge's or jury's understanding.

Conduct norms are found everywhere. They are not the same everywhere, however. Therefore, it is as reasonable to maintain that an offender is not guilty by reason of differential association with a sub culture as it is to hold that an accused is not guilty by reason of of mental condition.

If a person living all his life in a criminal culture violates the urban, white, middle class law he may have no feeling of guilt, remorse or wrong-doing any more than a psychopath, because he never learned the conduct norms he has violated.

Thus, the entire question of the knowledge of "right and wrong" becomes in the light of sociological findings even more dubious than it already appeared in its psychiatric setting. The question of responsibility in its final form is therefore a philosophical one and does not really lend itself to a permanent and fixed decision.

Therefore, it is here proposed that juries no longer be burdened with having to make a decision which they evidently cannot make.

For the purpose of protecting the community and also serving the needs of the accused it is poor policy to find anyone "not guilty by reason of insanity" or anything else if it can be clearly demonstrated that the accused has committed an act of lawlessness. Instead, juries should be asked only to decide whether or not the accused has committed the crime charged. If so, and if found guilty, then an objective panel of psychiatrists, sociologists, and lawyers should be appointed by the court to determine treatment for the offender. Such a method would evidently relieve the jury, protect the community, serve the needs of the accused, and prevent the needless and ridiculous spectacle of psychiatric testimony which is based more on the interests of the contending parties than the available facts of science.

The attachment of a penalty to a verdict, such as the automatic death penalty in cases of first degree murder cannot promote an objective consideration of a defendant's case by a jury who must concern itself with a matter which is not only beyond its competence but which inevitably brings an extraneous issue into its deliberations.

5. Overholser. "Some Psychiatric etc.", p. 120.
7. Ibid. p. 529.
8. Ibid. p. 529.
13. Ibid.
15. Ibid. p. 546.

THE PROFESSIONAL CORNER

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