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## PSYCHIATRY AND ITS RELATIONSHIP TO THE ADMINISTRATION OF THE CRIMINAL LAW

BY WILLIAM NELSON, M.D.

Psychiatry during the past decade has undergone such expansion in the demands made upon it for service that the comparison of psychiatric service today with that of a few years ago reminds one of the ascendance of modern scientific procedure over the metaphysical deliberations of years gone by. Not that one makes claim for such advanced knowledge of human behavior today, but rather that scientific attitudes have taken the place of metaphysical musings and as a consequence a vast amount of data has been accumulated pertaining to human behavior that at least meets the requirements of scientific concepts.

"Extramural" psychiatry has become an essential part of the psychiatric service established for the examination and treatment of individuals who do not reach the mental disease institution. At the present time thirty-four states have established service in the form of clinics of a mental hygiene character for the purpose of studying the behavior of maladjusted individuals including the mentally diseased, delinquent, criminal, etc., in the hope that the rapidly increasing population in reform schools, penitentiaries and mental disease institutions might be reduced.

A few states have made provision specifically for the psychiatric examination of offenders against the law. The author six years ago advocated mandatory provision for the psychiatric examination in the State of Missouri of individuals accused of crime.<sup>1</sup> This was done after observing the results of such a provision in the State of Massachusetts.

Since writing the above named article some significant happenings have evolved in dealing with the offender of the law. The relationship between the psychiatrist and the members of the legal and judicial profession has been an increasingly effective one. The psychiatrist in his role of scientific investigator and interpreter of the behavior of the individual has been able

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<sup>1</sup> William Nelson, *Need for Psychiatric Examination in Criminal Cases* (1926) 11 ST. LOUIS LAW REVIEW 284.

to contribute his knowledge to the dealing with the offender with the result that the offender and society have been considered rather than the offense committed.

This has brought about a changed attitude toward expert medical testimony and has permitted of an examination of an offender being conducted with the possibility of the revelations in such a situation being accepted and serving as a basis for the disposition or treatment of the individual so involved. The former tendency of opposition, or for partisan expert medical testimony to be submitted, with its orgy of hypothetical question, cross examination, psychological bias, etc., has been, in many instances, replaced by a careful analysis of the offender, his own makeup, developmental experiences, environmental influences, etc. Such procedure has been given the stamp of approval by the most significant national organization of the legal profession, namely, the American Bar Association, which two years ago at its annual meeting unanimously adopted a resolution providing for the mandatory psychiatric examination of offenders of the law.<sup>2</sup>

While no mandatory statutory provisions for psychiatric examination of offenders has been enacted by the State of Missouri, legal provisions exist that permit of such examination being made. The City Courts, which have jurisdiction over misdemeanors; the Court of the Criminal Correction, which have preliminary jurisdiction over felonies; and the Circuit Courts, which have jurisdiction in trial of felonies, have all availed themselves of the psychiatric service available through the Department of Public Welfare of the City of St. Louis.

The author for the past eight years in his capacity as Director of the Psychiatric Child Guidance Clinic has come into intimate contact with various sources dealing with human behavior. This has pertained not only to the Juvenile Court, schools, social agencies, parents, etc., which the Clinic serves as a part of the community programme, but to a minor extent it has served the adult courts through the same cooperative spirit that has existed between it and the many other sources with which it has dealt.

The number of patients examined for the adult courts is 410.

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<sup>2</sup> Annual meeting of American Bar Association in Memphis, October, 1929.

The spirit that prompts this article is a desire to report the experiences of the Clinic under voluntary relationship between it and the adult courts availing themselves of the service.

That expert medical testimony has come in for a large share of criticism there is no doubt. That some of the criticism is just and embraces certain facts in regard to the medical expert there can also be no doubt. But that medical expert testimony is essentially honest I am thoroughly convinced and I believe with improvement of conditions under which it is rendered it will be lifted to a plane where it will be acknowledged by everyone as a revelation of facts based upon the best scientific knowledge extant.

The medical expert contrary to a notion held by some persons is not a biased person. While it is true his partisan employment encourages him to lean in the direction of his employment there is always the compensatory influence of a scientific training and fact to balance him, and it usually does.

The question of the nonpartisan employment of the expert can easily be solved by his being designated by the Court to make the examination. After all, the scientific man is interested in the improvement of humanity, for as such, man's social welfare is the crystallization of his aims. This pertains to the individuals making up society as a whole as well as the individual who stands charged with an offense against his fellowman. The psychiatrist attempts to investigate all aspects of the situation with a view to determining the assets as well as the liabilities possessed by the offending person, utilizing the resources set up by society for the rehabilitation of the individual as well as the protection of the individuals that make up society. One cannot consider the one without taking cognizance of the other. Ascertaining these facts the medical expert through his training and experience should be qualified to offer suggestions for the treatment of the offender as well as for the protection of society, for their relationship is indissolubly united. In our experience with the courts the encouragement has been for us not only to make an investigation with the idea of reporting upon the offender's degree of responsibility, but also to make recommendations as to the treatment of the offender. This brings the psychiatrist into direct relationship with the court whose aid he really becomes. It removes him from the position of being sought by either pros-

ecution or defense to conduct the examination, for in every situation where we conduct an examination, it is only at the request of the source having jurisdiction. This is as it should be, since it is obvious that we are not interested in submitting information that is to be scrutinized with a view to its disruption through orgies of cross examination, the use of hypothetical questions, dogmatic demands for arbitrary statements of "Is this person sane?" or "Is he insane?" etc.

During recent years there has developed considerable confidence on the part of certain trial judges, prosecutors and defense attorneys in a psychiatric examination. This is indicated in the cooperation that has existed in a number of cases tried in the Criminal Divisions of the Circuit Court as well as those tried in the Courts of Criminal Correction and City Courts. Just as it requires a particular type of personality to become a competent psychiatrist, so also does it require a particular type of personality to be able to assimilate facts pertaining to human conduct in its legal significance, its motivations, implications and consequences. It has often been stated that there are no statutory provisions for certain procedure and that therefore one must observe a stereotype that adheres to interpretation predicated upon facts long ago expurgated by the progress of enlightenment. I contend that we interpret intelligently when we deal with fact in its dynamic significance, for fact is ever changing in the light of evolving knowledge. Therefore our conception of the provisions of the law will depend not upon a static meaning that we read into it but rather upon a fluid basis that permits of interpretation in accordance with changing fact. We have an illustration of this in our United States Supreme Court in the personalities of such men as Justices Holmes, Brandeis and Stone, whose brilliant discussions of questions coming before them for consideration embrace an attitude consistent with the changing social order. We are fortunate in having men of this character locally who are charged with legal interpretation and administration. It is this fact that has made it possible for psychiatric service to be of value in dealing with offenders.

From the City Courts, which have jurisdiction only over misdemeanors, there are referred many interesting problems. Problems from simple peace disturbance to more profound offenses against the person as well as property and social regula-

tions are often involved in municipal court cases, but for want of sufficient evidence it is not feasible to secure a warrant against the offender in the higher court. Some of the more serious sexual offenses, drug addiction, alcoholism, assault, etc., are brought into these courts under charges of disturbance of the peace. Many of these individuals upon examination show signs of disordered or diseased personalities. Some of them are suffering from frank mental disease, others have all degrees of physical degeneration, disease and injury.

As a matter of fact the criminal individual is no different in make up from other individuals. He has the same structural composition that the other individuals of society have; he has the same reflex mechanisms, the same physiological activities represented in his responses, and, except in degree, he is actuated by the same driving forces that prompt every other individual in his or her behavior. So in dealing with the individual who commits offenses against the regulations of society one cannot properly deal with the situation without an intimate knowledge of the individual as a whole. When one approaches the problem from this aspect the situation is not essentially different from what it is in other aspects of medical science. All cases of typhoid fever, appendicitis, etc., are not treated alike merely because of the uniformity in diagnosis of a particular disease. One takes into consideration that it is an individual to be dealt with and not some intangible result of that individual's reaction. To be sure it is the reaction or rather the result of some reaction in the form of an occurrence inimical to social progress that brings the individual to administrative attention, but if a repetition or continuance of such conduct is to be prevented it is the individual to whom the treatment must be applied. One takes into consideration age, condition of health, mental capacities, emotional integrity, powers of resistance, abilities in forming judgments, past experiences and habitual attitudes. The patient becomes the object upon which the emphasis is placed and the disease or offense is an incident that prompts the attention. It is just as illogical, then, to sentence an individual who has committed a certain offense to a definite period of imprisonment as it is to assure a patient on the day of becoming ill or receiving an injury just how long he will be incapacitated. The patient is kept under treatment until his own reactions have gained the

ascendency over the offending substance and he has sufficiently recovered so that he can resume his place in responsibility. And so with the individual committing offenses against society; he should not be discharged until there is reason to believe he can adequately meet the conditions of social demands. This means at times that an individual committing a minor offense may need to spend the remainder of his days under supervised restriction. On the other hand it may also mean that some individuals committing more serious offenses could make an adjustment to social demands again in the community in a relatively short time. This would be quite in accord with the principles of criminology, which dictate that the individual and not the offense he has committed should be of fundamental importance. The state takes the place of the physician in this situation and the court which is the representative of the state attempts to cure the social illness by procedure that has not kept pace with developing knowledge.

The present day method extant of fitting the case into some category of designation and pronouncing an arbitrary predetermined sentence can only be subversive of the protection that society needs as well as to destroy what possibility may have existed of converting the criminal into a useful citizen. In this connection one can only look with disappointment upon the treating of young men as habitual criminals who have had two and three periods of confinement in penal institutions and have returned to society to commit some other, often times minor, offense and have been sentenced to long periods (usually meaning a life sentence) to penal institutions again without any inquiry into their physical or psychological makeup or potentialities. Surely one is not justified in condemning to a life of denial and desuetude so far as social privilege and economic effort are concerned any individual, without first knowing more about that individual than the superficial aspect of misdeeds committed by him. This would be analogous to the physician casting aside an individual as incurable who had "shingles" bilaterally because of the superstition that one never recovers from bilateral "shingles."

At least until such time as we can hope for those persons engaged in administering the law in regard to social misconduct to be students of sociology and psychology and demand that all

available information pertaining to the offender be utilized as a basis of consideration in dealing with him they should be willing to give the psychiatrist as favorable a place in the scheme of the administration of justice as is held by the judge and jury. This would place him, or should do it, in an unprejudiced relationship.

My experience of over eight years in close relationship to the courts convinces me that juries should not be required to pass upon questions involving the offender's responsibility, potentialities for adjustment or method of treatment. This is work for experts to do and can be done intelligently only after careful consideration of the many factors entering into the situation. The only duty that should be required of the jury is to pass upon the fact of the offense, that is, whether or not the individual did or did not commit the offense.

In the City Courts and Court of Criminal Correction in St. Louis no juries are impaneled except in unusual cases. Here the psychiatrist deals directly with the judge or the court. This seems much preferable to trial by a jury so far as the value of medical information is concerned. It has seldom happened that the judges in these courts have failed to adopt the recommendations of the psychiatrist. While, as was stated earlier in this article, the City Courts do not have jurisdiction over felonies and the Courts of Criminal Correction have preliminary jurisdiction, some problems of equal gravity have been referred from these courts as from the criminal division of the Circuit Court, which has final jurisdiction in dealing with felonies.

It would seem that much time and expense could be saved if there were closer cooperation between the defense and state's attorney. It should be as much the duty of the state's attorney to secure treatment of the offender in accordance with medical revelations as it is the duty of the defense attorney, and it should be possible for them to decide upon some psychiatrist, or possibly better still, a group of three psychiatrists to examine the defendant and be willing to abide by the opinion of the psychiatrist or psychiatrists so chosen in regard to the medical questions involved. This has occurred in most of the cases of the patients examined by us referred from the Criminal Division of the Circuit Court, but in a few instances cooperation has not existed. It has so happened that those cases in which cooperation has



been wanting the state's attorney has opposed the acceptance of the psychiatrist's views. In every instance with the exception of one the jury acted in accordance with the views of the state's attorney and rejected the medical expert's testimony which indicated irresponsibility on the part of the offender and treatment of him as a mentally ill or defective individual.

There seems to be an impression among non-medical individuals that the psychiatrist seeks to condone the offender's misdeeds and relieve him from any responsibility for his acts. This is far from the truth. What the psychiatrist does seek to do is to secure the most effective as well as humane way of dealing with the individual both in terms of the protection of society and restoration of the individual. This cannot be accomplished by an arbitrary sentence for a specific term to a penal institution where conditions are such that he will be subjected to the most inimical influences and where the possibility of emotional reintegration will be destroyed. That an appreciable number of individuals committing misdeeds need to be permanently restricted there is no doubt. This number cannot be determined, however, without intelligent analysis. Such procedure is heartily approved but a condition of its application demands psychiatric guidance. This will insure its greatest effectiveness because it will be in accordance with the capacities of the individual to meet the situations confronting him. The individual offender is rarely desirous of accepting mental irresponsibility as a basis for his wrong doing. Neither does he want to go to a mental disease institution as a rule. An investigation conducted by the writer over a five year period reveals the fact that over seventy per cent of individuals committing misdeeds prefer to go to a penal institution for a specific period rather than to be committed to a mental disease institution indefinitely where they know they are likely to remain until, within the judgment of the psychiatrist, they are able again to meet community social demands. Contrary to the popular opinion offenders do not invoke "insanity" as an "excuse" for their crime.

The patients referred for examination constitute a selective group since no attempt is made to examine everyone coming to the courts. They are selected by some one, for example, the judge of the court, state's or defense attorney, parole officer, relative, etc., who has some relationship to the offender and

who has some reason to believe that the court would be aided in an intelligent disposition of the case by having such an examination made.

The following table indicates the number of patients referred, classified according to sex and race:

TABLE NO. I.

|                      | Number | Per Cent |
|----------------------|--------|----------|
| White male .....     | 311    | 75.8     |
| White female .....   | 44     | 10.7     |
| Colored male .....   | 43     | 10.4     |
| Colored female ..... | 12     | 2.9      |
| Total .....          | 410    | 100.00   |

It will be noted that about seven times as many white men receive psychiatric service as do white women; that white women and colored men are referred in equal proportion, and that colored women are in the great minority. It is not possible to state to what extent these numbers are representative of the offenders appearing in court since no data has been compiled indicating this.

TABLE NO. II.

## CLASSIFICATION OF CASES

I. Total number of cases ..... 410 or 100 per cent  
 II. Classification in regard to mental status.

|  | Number | Per Cent |
|--|--------|----------|
| 1. Those suffering from frank mental disease (insane)  |        |          |
| a. Paranoid mental state .....   | 37     | 9.00     |
| b. Manic depressive psychosis .....  | 9      | 2.00     |
| c. Schizophrenia (dementia precox) .....   | 16     | 4.00     |
| d. General paresis .....   | 13     | 3.00     |
| e. Epileptic insanity .....  | 13     | 3.00     |
| f. Senile dementia .....   | 5      | 1.20     |
| g. Unclassified mental disease .....   | 57     | 14.00    |
| 2. Those having psychopathic states not frank mental disease   |        |          |
| a. Psychopathic personalities .....  | 136    | 33.17    |
| 3. Feeble-minded   |        |          |
| a. Feeble-minded to a degree of irresponsibility requiring guidance from sources outside themselves. Having less than three-fourths the mentality of the average adult. Insane with legal significance | 54     | 13.17    |
| b. Feeble-minded with psychopathic states.....   | 18     | 4.30     |
| c. Mental disease or feeble-mindedness associated with syphilis of the nervous system.....   | 23     | 5.60     |
| 4. Undiagnosed .....   | 22     | 5.30     |
| 5. Normal mentality .....  | 7      | 1.70     |
| Total .....  | 410    | 100.00   |

In the above table the proportion of individuals suffering from various mental states according to modern classification is recorded.

It will be noted that psychopathic personalities claim the largest number, constituting approximately one-third of the cases examined. Within the mental abnormality group unclassified mental disease comes second. No doubt further observation of this group would enable one to locate most of them in some one of the classified groups. It is worthy of note that approximately 23 per cent of the number examined were feebleminded. This correlates very closely with the results of the analysis of 500 CRIMINAL CAREERS by Sheldon and Eleanor Glueck, being a study of 500 individuals, with subsequent careers in the community, discharged from the state reformatory of Massachusetts in which 21 per cent were found to be feebleminded.

Table III deals with charges in relationship to type of mental disease. It is admitted that it has little scientific meaning for the reason that "charge" against an individual often has little inclusion pertaining to the real nature of the offense. For example "peace disturbance" constitutes about 25 per cent of the total offenses listed and yet a wide diversity of acts are included under this caption. Since most of the cases referred came from the City Courts, which have jurisdiction over misdemeanors, offenses against social regulations would be expected to make up a large proportion of the charges. These offenses make up approximately 60 per cent of the total.

It is of some interest to note, in spite of the fact that sexual offenses are not dealt with as such by the City Courts, approximately 16 per cent of the charges are constituted in sex offenses as indicated in the table. Psychopathic personalities are charged more or less uniformly with the various offenses whereas the other types of mental disturbances and the feebleminded are more selective in the character of offense committed.

Reference to table IV indicates that approximately 75 per cent of the recommendations of the psychiatrist for disposition (treatment) of the individuals are accepted by the sources from which they were referred. The treatment consisted of five different procedures, as indicated in the table, which need no further elaboration. It should be said here by way of emphasis

TABLE NO. III

CORRELATION OF TYPE OF MENTAL DISTURBANCE WITH CHARACTER OF CHARGE

|                                     | Paranoid mental state.                | Manic depressive psychosis. | Schizophrenia (Dementia Praecox). | General Paralysis. | Mental diseases or feeble-mindedness associated with syphilis of the nervous system. | Unclassified mental diseases. | Senile dementia. | Epileptic insanity. | Feeble-minded with psychopathic states. | Feeble-minded to a degree of irresponsibility requiring guidance from sources outside themselves. Having less than three-fourths the mentality of the average adult. Insane within legal significance. | Psychopathic personalities. | Undiagnosed. | Normal mentality. | Totals. |  |
|-------------------------------------|---------------------------------------|-----------------------------|-----------------------------------|--------------------|--|-------------------------------|------------------|---------------------|---|--|-----------------------------|--------------|-------------------|---------|--|
| OFFENSES AGAINST PROPERTY           | I.                                    |                             |                                   |                    |  |                               |                  |                     |   |  |                             |              |                   |         |  |
|                                     | Stealing.....                         | 2                           | 3                                 | 2                  | 1  | 2                             |                  |                     |   | 4  | 5                           | 3            | 1                 | 23      |  |
|                                     | Trespassing.....                      |                             |                                   |                    |  |                               |                  |                     |   |  | 1                           |              |                   | 1       |  |
|                                     | Forgery.....                          |                             |                                   |                    |  |                               |                  |                     |   |  | 1                           |              |                   | 1       |  |
|                                     | Burglary and Larceny.....             |                             | 2                                 |                    |  | 2                             |                  | 1                   |   | 2  | 4                           |              | 1                 | 12      |  |
| Destruction of property.....        | 1                                     |                             |                                   |                    | 2  |                               |                  |                     |   | 3  |                             | 1            | 7                 |         |  |
| OFFENSES AGAINST THE PERSON         | II.                                   |                             |                                   |                    |  |                               |                  |                     |   |  |                             |              |                   |         |  |
|                                     | Robbery.....                          | 2                           | 2                                 |                    | 1  | 6                             | 2                | 2                   | 1                                       | 1  | 1                           |              |                   | 17      |  |
|                                     | Assault.....                          | 3                           |                                   |                    | 2  | 11                            |                  | 2                   | 1                                       | 1  | 8                           | 1            |                   | 29      |  |
|                                     | Cruelty to family.....                |                             |                                   |                    |  | 2                             |                  |                     |   |  | 7                           |              |                   | 9       |  |
|                                     | Murder.....                           |                             | 2                                 | 1                  | 1  | 1                             |                  |                     |   | 1  | 2                           |              |                   | 8       |  |
|                                     | Attempted suicide.....                |                             | 1                                 |                    |  |                               |                  |                     |   |  |                             |              |                   | 1       |  |
|                                     | Desertion of family.....              |                             | 1                                 |                    |  | 1                             |                  |                     |   | 2  | 4                           |              |                   | 8       |  |
|                                     | Non-support.....                      | 1                           | 1                                 |                    |  | 2                             | 1                |                     |   |  | 4                           |              |                   | 9       |  |
|                                     | Bigamy.....                           |                             |                                   |                    |  |                               |                  |                     |   |  | 1                           |              |                   | 1       |  |
|                                     | Fighting.....                         |                             |                                   |                    |  |                               |                  |                     |   |  | 1                           |              |                   | 1       |  |
|                                     | Threatened violence.....              | 1                           |                                   |                    |  |                               |                  |                     |   |  |                             |              |                   | 1       |  |
| OFFENSES AGAINST SOCIAL REGULATIONS | III.                                  |                             |                                   |                    |  |                               |                  |                     |   |  |                             |              |                   |         |  |
|                                     | Carrying concealed weapons.....       | 1                           |                                   | 1                  |  |                               |                  |                     |   |  | 1                           |              |                   | 3       |  |
|                                     | Imitating an officer.....             |                             |                                   |                    |  |                               |                  |                     |   | 1  |                             |              |                   | 1       |  |
|                                     | Driving while intoxicated.....        |                             |                                   |                    |  |                               |                  |                     |   |  | 2                           | 1            |                   | 3       |  |
|                                     | Driving without consent of owner..... |                             |                                   | 1                  |  |                               |                  |                     |   |  |                             |              |                   | 1       |  |
|                                     | Escaped inmate.....                   |                             |                                   |                    |  |                               |                  |                     |   | 1  |                             |              |                   | 1       |  |
|                                     | Drug addiction.....                   |                             |                                   |                    |  | 1                             |                  |                     |   |  |                             |              | 1                 | 2       |  |
|                                     | Obscene language.....                 |                             |                                   |                    |  |                               |                  |                     |   |  | 2                           |              |                   | 2       |  |
|                                     | Drunk on street.....                  | 3                           |                                   |                    |  | 3                             | 1                |                     | 1                                       |  | 4                           |              |                   | 12      |  |
|                                     | Begging.....                          | 2                           |                                   |                    |  | 4                             | 1                |                     | 1                                       | 2  | 1                           |              | 1                 | 12      |  |
|                                     | Vagrancy.....                         | 1                           |                                   | 2                  |  | 1                             | 1                |                     |   | 6  | 1                           |              | 1                 | 13      |  |
|                                     | Resisting arrest.....                 | 1                           |                                   | 1                  |  | 1                             |                  |                     |   |  |                             |              |                   | 2       |  |
|                                     | Violating traffic ordinance.....      | 1                           | 1                                 |                    |  | 1                             |                  |                     |   |  | 1                           |              |                   | 3       |  |
|                                     | Peace disturbance.....                | 22                          | 3                                 | 2                  | 6  | 9                             | 18               | 5                   | 9                                       | 14   | 42                          | 2            | 1                 | 133     |  |
|                                     | Alcoholism.....                       | 7                           | 3                                 |                    |  | 5                             | 10               | 1                   |   | 5  | 36                          | 1            |                   | 69      |  |
|                                     | Fraud.....                            | 1                           | 1                                 | 1                  |  | 1                             | 5                |                     | 1                                       | 1  | 3                           | 1            |                   | 15      |  |
| Incorrigibility.....                |                                       |                             |                                   |                    |  |                               |                  |                     |   | 1  |                             |              | 1                 |         |  |
| Contempt of court.....              |                                       |                             |                                   |                    |  |                               |                  |                     |   | 1  |                             |              | 1                 |         |  |
| OFFENSES OF SEX NATURE              | IV.                                   |                             |                                   |                    |  |                               |                  |                     |   |  |                             |              |                   |         |  |
|                                     | Rape or attempted rape.....           |                             |                                   |                    | 1  |                               |                  | 1                   | 1                                       | 4  | 3                           | 1            |                   | 11      |  |
|                                     | Sodomy.....                           | 1                           |                                   |                    |  |                               |                  |                     |   |  | 1                           |              |                   | 2       |  |
|                                     | Exhibitionism.....                    |                             |                                   |                    | 2  | 1                             |                  |                     |   | 2  | 17                          | 2            |                   | 24      |  |
|                                     | Sexual abnormality.....               | 1                           | 2                                 |                    |  |                               |                  | 1                   |   | 5  | 5                           | 2            |                   | 16      |  |
|                                     | Sexual perversion.....                | 1                           | 1                                 |                    | 3  | 1                             |                  |                     |   | 3  | 2                           |              | 1                 | 12      |  |
|                                     | Sexual inversion.....                 |                             |                                   |                    | 1  |                               |                  |                     | 1                                       | 2  | 4                           |              |                   | 8       |  |
|                                     | Pedophilia.....                       |                             |                                   |                    |  |                               |                  |                     |   |  | 6                           |              |                   | 6       |  |
| Record incomplete.....              |                                       |                             |                                   |                    |  |                               |                  |                     |   |  | 6                           |              | 6                 |         |  |
| Total.....                          | 51                                    | 12                          | 15                                | 13                 | 30   | 72                            | 5                | 11                  | 18                                      | 57   | 175                         | 20           | 8                 | 487     |  |

TABLE NO. IV  
OUTCOME OF RECOMMENDATIONS IN 410 CASES

|   | Supervision in Community |         |          | Further Observation |         |          | Commitment to Mental Institution |         |          | Commitment to Feeble-minded Institution |         |          | Undiagnosed. | To be dealt with as normal individual. | TOTAL |
|---|--------------------------|---------|----------|---------------------|---------|----------|----------------------------------|---------|----------|---|---------|----------|--------------|--|-------|
|   | Adopted                  | Not Ad. | Undeter. | Adopted             | Not Ad. | Undeter. | Adopted                          | Not Ad. | Undeter. | Adopted                                 | Not Ad. | Undeter. |              |  |       |
| Paranoid Mental State   | 4                        | ...     | 2        | 1                   | ...     | ...      | 19                               | 1       | 10       | ...                                     | ...     | ...      | ...          | ...                                    | 37    |
| Manic depressive psychosis  | 2                        | ...     | ...      | ...                 | ...     | ...      | 7                                | ...     | ...      | ...                                     | ...     | ...      | ...          | ...                                    | 9     |
| Schizophrenia (Dementia Precox).  | 2                        | ...     | ...      | ...                 | ...     | ...      | 8                                | 3       | 3        | ...                                     | ...     | ...      | ...          | ...                                    | 16    |
| General paresis   | 1                        | ...     | ...      | ...                 | ...     | ...      | 12                               | ...     | ...      | ...                                     | ...     | ...      | ...          | ...                                    | 13    |
| Mental diseases or feeble-mindedness associated with syphilis of the nervous system   | 2                        | ...     | ...      | ...                 | ...     | ...      | 15                               | 3       | 3        | ...                                     | ...     | ...      | ...          | ...                                    | 23    |
| Unclassified mental diseases  | 5                        | ...     | ...      | 7                   | ...     | 1        | 34                               | 3       | 7        | ...                                     | ...     | ...      | ...          | ...                                    | 57    |
| Senile dementia   | 5                        | ...     | ...      | ...                 | ...     | ...      | ...                              | ...     | ...      | ...                                     | ...     | ...      | ...          | ...                                    | 5     |
| Epileptic insanity  | 9                        | 2       | 1        | ...                 | ...     | ...      | ...                              | ...     | ...      | 1                                       | ...     | ...      | ...          | ...                                    | 13    |
| Feeble-minded with psychopathic states  | 4                        | ...     | ...      | ...                 | ...     | ...      | 7                                | 3       | 3        | 1                                       | ...     | ...      | ...          | ...                                    | 18    |
| Feeble-minded to a degree of irresponsibility requiring guidance from sources outside themselves. Having less than three-fourths the mentality of the average adult. Insane within legal significance | 15                       | ...     | 1        | 3                   | ...     | ...      | 6                                | 3       | 2        | 17                                      | 3       | 4        | ...          | ...                                    | 54    |
| Psychopathic personalities  | 59                       | ...     | 3        | 5                   | ...     | 3        | 48                               | 7       | 11       | ...                                     | ...     | ...      | ...          | ...                                    | 136   |
| Undiagnosed   | ...                      | ...     | ...      | ...                 | ...     | ...      | ...                              | ...     | ...      | ...                                     | ...     | 22       | ...          | ...                                    | 22    |
| Normal mentality  | ...                      | ...     | ...      | ...                 | ...     | ...      | ...                              | ...     | ...      | ...                                     | ...     | ...      | 7            | ...                                    | 7     |
|   | 108                      | 2       | 7        | 16                  | ...     | 4        | 156                              | 23      | 39       | 19                                      | 3       | 4        | 22           | 7                                      | 410   |

RECOMMENDATION IN RELATIONSHIP TO

|                         | Number     | Percent      |
|-------------------------|------------|--------------|
| Adopted                 | 299        | 72.9         |
| Not adopted             | 23         | 6.8          |
| Undetermined            | 54         | 13.1         |
| Undiagnosed             | 22         | 5.3          |
| To be treated as normal | 7          | 1.7          |
|                         | <u>410</u> | <u>100.0</u> |

that we did not recommend supervision in the community unless careful analysis convinced us that society would be adequately safeguarded and the individual's best opportunity for rehabilitation was thereby created. This was recommended in 117 of the 410 cases, whereas commitment to mental disease institutions was recommended in 218 cases and to feeble-minded institutions in 26 cases.

While outcome of treatment is not being made a part of this study, recidivism can be stated to have occurred to only a minor extent.

Does justice rule?

Before proceeding to conclusions and suggestions as to means of effectively using psychiatric service in the administration of the criminal law let us cite some cases illustrative of the miscarriage of justice in some problems dealt with by the courts. No attempt will be made to present an elaborate social, medical and psychological analysis of the situation, but enough, I hope, to make clear the failure to deal with the individual before the bar of justice in accordance with social needs and scientific facts.

Case No. 1005. A white man, 25 years of age, married twice, both wives leaving him after short periods of marital experience with him. According to the statement of the second wife with whom he was living at the time he committed the offense admitted by him, she had left him about two weeks before the murder was committed to which he pleaded guilty. He made no effort to have sexual relations with her although they slept together during their life together. He concentrated his attention upon her frail appearing, pale, doll-faced, little daughter by a previous marriage, spending hours with her, taking her to the store and buying her small quantities of candy frequently. His wife became disgusted with a specific act of misconduct in regard to the daughter, and at the same time was frightened "from the look on his face," and upbraided him for his attitude. He took a small suitcase with a few of his clothes the next morning and left her.

He attended school until about the age of 13 years, reaching the 5th grade. He truanted from school because, as he told the psychiatrist, "I jes couldn't git it an I was bashful." He was sent to the state reformatory at Boonville for two years at the

age of 10 years for breaking the seal on a box car in company with another boy. He was employed many places, the longest period he remained at one place was three months. He quit because the conditions under which he worked were dissatisfying or else he was discharged without being given any reason. He entered the United States Navy twice, once in the draft of 1918 and again voluntarily in 1921. He was discharged both times shortly after entering the service and didn't know the cause except he thought it was "medical." He always played with little children. Up to the present time he has sat near where little children were playing and "watched" them by the hour. Sometimes he would enter for a time into their games but in a detached fashion. He had no bad habits that anyone "knewed of."

The offense to which he pleaded guilty was that of murdering a 6 year old boy. The boy and he lived in the same neighborhood. He had watched the boy on previous occasions playing with other children in the alley. He had wanted to touch the boy and a few days before the murder he "almost touched him" when he was playing. On the day of the murder the little boy came down in the basement where the patient was cleaning. He asked the boy to help him. He was sure he liked the boy. They were taking up the trash and rearranging the articles. He took hold of the boy but insists he was only playing with him. The patient placed his arm around the boy's neck and said: "I jes wanted to squeeze him." He "squeezed harder and harder" until the boy collapsed. He then placed his hands on the boy's throat and "choked him to death."

Examination revealed a markedly immature man emotionally with the mentality of less than a nine year old child. This means slightly more than one-half the mental capacity of the average grown person. He lacked sufficient emotional organization to be considered in any view near normal and he possessed such distortion and immaturity of his sexual feeling that he could not enter into friendships or sexual love experiences in a wholesome manner. Undoubtedly his murdering of this boy was a sadistic reaction as a part of his pathological pedophilia. He was not only feeble-minded and as such unable to distinguish between right and wrong, and therefore insane within the meaning of the law, but he was disorganized mentally, which added to his irresponsibility through mental disease.

He was sentenced to life imprisonment in the state penitentiary.

No one would attempt to condone this man's acts, for they are revolting to an extreme. The recommendation of the psychiatrist at the time was for commitment to a mental disease institution where, at least, he would receive treatment of a character that was indicated by the facts revealed. It was not argued that this man could be reintegrated, for no one knows what science could do for him. What is known is that there is no justification for his being sent to the penitentiary, for no provision exists there for treating such individuals. If it is possible to reestablish his emotional integrity he could be returned to the community under supervision. This would best be accomplished by analytical procedure in the hands of a skilled psychiatrist. If he were never sufficiently well reintegrated so that he could return to the community he, at least, would have what care science could render him.

The following is also impressive of the discordance between represented fact and the action of the court in dealing with the offender:

Case No. 1010. A white native born American man, 22 years of age, single, who had attended school irregularly, lived a nomadic life and worked only for short periods in a number of places of employment.

As early as ten years of age he was the source of a great deal of trouble both in his home and in the school. He rejected parental authority, resented the regulations of the school and was frequently in conflict with the principal, school teacher and his schoolmates. He quit school at the age of 15 or 16, but did not know what grade he had attained.

He had an uncontrollable temper and would become angered at very slight causes. When angered he would leave home, sleep in the park, on the sidewalk, in doorways, go out into the country, etc., and return in a dirty and debilitated condition, sometimes after a few days and at other times remaining away for two or more weeks. He was suspicious of his employer and fellow employes and became involved frequently in fistic as well as verbal combat with them. He would become dissatisfied and quit or be discharged because of his uncooperativeness in places of employment.



He had been in conflict with the law on two occasions previous to the one preceding the psychiatric examination. On one occasion, in an altercation with a man, he struck him under the chin knocking him to the sidewalk. The patient insists the man died of a fractured skull sustained from striking the sidewalk. The other appearance in court was the result of his driving to the adjoining state of Illinois in company with two other men in a stolen car.

The offense for which he appeared in court previous to the psychiatric examination was attempted robbery in association with another man. He and his associate attempted to rob a filling station. The police department, having been advised of the possible robbery, had stationed officers in the filling station. When the would-be robbers came in the officers opened fire. The patient's associate was killed but the patient escaped unhurt. He was tried and sentenced to 50 years in the penitentiary despite the medical testimony to the effect that he had dementia praecox and was limited in mental capacity to a level of high grade feeble-mindedness.

#### CONCLUSIONS

The above cases both from a viewpoint of life experiences and the analysis of the personalities indicate the inconsistency of treatment when compared with the facts elicited in the examination.

The extent to which testimony is given credence in trial of offenders of the law depends largely upon two factors: (1st) the degree of enlightenment of those persons administering the law, and (2nd) the freedom of such persons from bias in giving value to the various testimonial statements.

It is my belief that with legal provisions that are at present a part of the regulations for the observance of human beings it is possible to deal with offenders of the law effectively and quite in accord with the development of scientific facts. After all, law is no more static than the vision of those administering it. I am quite convinced that whatever improvement is to come in our dealing with human beings out of harmony with their fellowmen must come through the vision that permits of interpretation in accordance with social needs and the welfare of the individuals

involved. There are such individuals, although few, in the judiciary and state attorney's office. It has been my pleasure to be associated with several of such men in the eight years of my relation to court work in St. Louis. What we need is greater numbers of them in the universal administration of criminal justice, for then we would not be compelled to point to the few men who are outstanding monuments to the cause of human justice.