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## CHANGING CONCEPTS IN FORENSIC PSYCHIATRY

BERNARD C. GLUECK, JR.

This paper was read before the joint meeting of the Buffalo Neuropsychiatric Society and the Buffalo Academy of Medicine in February, 1954. The author is Fellow of the American Psychiatric Association, Diplomate of the American Board of Psychiatry and Neurology, and a graduate of the Columbia University Psychoanalytic Clinic. He is Supervising Psychiatrist of Sing Sing Prison and Director of the Research Project of the New York State Department of Mental Hygiene, for the Study and Treatment of Persons Convicted of Crimes Involving Sexual Aberrations.

Dissatisfaction with the indeterminate sentence law applied to sex offenders arises from our inability to perform the psychotherapeutic magic which some legislators and jurists expect. But it is a means of protection which invokes psychiatric treatment which is an important incentive to therapeutic progress.—EDITOR.

### INTRODUCTION

The background for this discussion is the detailed psychopathological information currently being accumulated by the Sex Research Project on both sexual and non-sexual offenders at Sing Sing Prison, as well as the clinical experiences of the author as Supervising Psychiatrist at the Prison during the past five years. During this time there has been a gradual change in the attitude of both the inmates and the custodial personnel toward the psychiatric services available in the Prison. In place of the time-worn jests about the "bug doctor" with their implication of the erratic and impractical behavior of the psychiatrist, or the use of psychiatric referral as a threat worse than the usual punishments, there has developed an attitude of respect and understanding for both the capacities and limitations of the psychiatric services presently available in the institution.

The first report of the Research Project was made to Governor Dewey in March 1950. In this report on 102 sex offenders, the emphasis was placed on the serious nature of the psychopathology found in each of the men examined. To quote from the report, "Of the 102 men studied, every one suffered from some type of mental or emotional disorder, though not usually so pronounced as to meet the legal definition of mental illness. These varied in type and intensity, from psychosis to neurosis."<sup>1</sup> Further studies have confirmed the accuracy of that initial report, the only change being in the direction of increased severity of illness, rather than any lessening of the intensity of the disturbances seen in these men. At the present time our diagnoses on the sex offenders in over 200 cases run as follows; Normal—0 percent, Psycho-neurosis—7 percent, Character Disorder—22 percent, Schizophrenic Reactions—69 percent, Other Psychoses—2 percent. We apply the term Character Disorder to those individuals who have no clear-cut neurotic symptoms, who show severe difficulties in their interpersonal relationships, but who do not show sufficient evidence

<sup>1</sup> Report on 102 Sex Offenders at Sing Sing Prison, as submitted to GOVERNOR THOMAS E. DEWEY, Albany, N. Y., March, 1950. State Hospitals Press, 1213 Court St., Utica, N. Y.

of disturbance of ego function and reality appraisal to be diagnosed as schizophrenic. Our impression, however, is that these men are probably in the very early stages of a schizoid adaptation, and may well progress to a more obvious schizophrenic reaction at a later date.

Our largest group, and the one that undoubtedly has caused the most disagreement in diagnosis, is the one we have labeled Schizophrenic Reactions. I am certain that most of the non-medical audience, and many of the non-psychiatric medical men, have a stereotype of the schizophrenic individual as the typically insane person, out of contact with reality, hallucinating, grossly erratic in behavior, etc. The number of overtly psychotic individuals in our group, individuals who would fit the stereotype, and who would be suitable for commitment to a State Hospital as legally insane, are relatively few, since most of these men are screened out, by the present procedures of psychiatric examination, before they are sentenced to State Prison. The bulk of our group are not legally insane under present definitions of this condition. They have been diagnosed as one of the varieties of schizophrenic reaction, such as pseudoneurotic schizophrenia—22 percent, or pseudopsychopathic schizophrenia—10 percent, schizoid personality—10 percent, and schizophrenic psychosis in remission—25 percent, because of the extensive pathology found on both psychiatric and psychological examination. Most of these men, if they were diagnosed at all before being sentenced, were diagnosed as some variety of psychopathic personality. Frequently the notation includes the statement that they are not psychotic. This is necessitated by the present legal and medical confusion concerning responsibility, especially criminal responsibility, and is meant to imply that the individual so labeled is legally responsible for his actions. Interpreted in another way, it implies that he is suitable for punishment for his misdeeds. This is a concept that we feel needs to be challenged, and that will be discussed in detail in a few minutes.

In a paper in the January, 1954 issue of the *Psychiatric Quarterly*<sup>2</sup>, we take issue with the diagnosis of psychopathic personality in these cases. That this is not a novel point of view is demonstrated by the change in diagnostic terms made by the American Psychiatric Association in 1952.<sup>3</sup> They discarded the term psychopathic personality as meaningless, and have suggested socio-pathic personality disturbance in its place. Many other authors have commented on the inadequacy of the diagnosis of psychopathic personality, and have suggested various substitutes. In a paper read at the 1953 meeting of the American Psychopathological Association, Dr. Samuel Dunaif, a member of our research team, and Dr. Paul Hoch, suggested the use of the term pseudopsychopathic schizophrenia for these individuals.<sup>4</sup> I refer to these two papers for a detailed discussion of the psychodynamic considerations involved in the inclusion of these individuals in the schizophrenic reactions. I would like, however, to emphasize the similarity in the early affective disturbances, particularly the intense early deprivation of an adequately supportive affective relation-

<sup>2</sup> GLUECK, B. C., JR., *Psychodynamic Factors in the Sex Offender*, *PSYCH. QUART.*, Jan. 1954.

<sup>3</sup> *DIAGNOSTIC & STATISTICAL MANUAL, MENTAL DISORDERS*, A.P.A. Mental Hosp. Service, 1785 Mass. Ave., N.W., Wash. 16, 1952.

<sup>4</sup> HOCH & ZUBIN, *PSYCHIATRY AND THE LAW*, N. Y., Grune & Stratton, 1954.

ship, in these individuals and in those usually diagnosed as schizophrenic. The difference arises in the type of defense erected against the overwhelming anxiety produced by the traumatic infantile experiences. It is these defensive maneuverings that we see as symptoms. In the usually diagnosed schizophrenic the defenses assume the well-known patterns of psychotic behavior, and are easily recognized and diagnosed. Until recently, the significance of the defensive maneuverings of the psychopath, that is his patterns of antisocial behavior, were poorly understood, and were misinterpreted. The classical hallmarks of the psychopath, his lack of anxiety and guilt, are no longer valid diagnostic criteria, since we have been able to demonstrate great anxiety and guilt in individuals so diagnosed. The difficulty arises from the fact that the anxiety and guilt are well hidden by the relatively more intact defensive structure erected by the psychopath, than is the case with the symptom formation of the usual schizophrenic. We have abandoned psychopathic personality as a diagnosis, in our studies on these men, and are placing most of the individuals so diagnosed on previous examinations in the schizophrenic group.

It is this shift in diagnostic criteria, with the increased understanding of the psychopathology and psychodynamics of the felony offenders, sexual and non-sexual, that has accompanied this change, that prompts the balance of my discussion. While realizing that much of what follows may be challenged as hypothetical, impractical and utopian, I am certain that all will recognize the seriousness of the problems presented by the antisocial individuals in our society, and are dissatisfied with present methods of dealing with the problem. I ask the readers, therefore, to bear with me while I develop some of the ideas that have suggested themselves as possible remedies for our present dilemma.

#### THE CURRENT PROBLEM

Let us first examine the concept of legal responsibility in the light of the diagnostic changes mentioned above. There has been great concern in recent years over the problem of responsibility in relation to criminal or antisocial acts. The Group for the Advancement of Psychiatry<sup>5</sup> is about to publish a report on this subject. The last meeting of the American Psychopathological Association, on Psychiatry and the Law<sup>6</sup>, devoted a great deal of time to the problem of redefining the concepts of legal responsibility in accordance with modern psychiatric concepts, which include: the assumption of unconscious motivations which may not be under the control of the individual, the recognition of partial alterations in the perception and understanding of reality, fluctuations in the intensity of a psychotic process, and the possibility of recovery from a mental illness or insanity. Most legal definitions of responsibility, mental competency, etc. are based on decisions formulated at a time when the existence of the unconscious mind, and the influence exerted by unconscious motivations, was unknown. In addition, the concept of the dynamic character of mental illness was only vaguely recognized, if at all. The commonly accepted concept was, once crazy, always crazy. That insanity could be treated, or that

<sup>5</sup> GROUP FOR THE ADVANCEMENT OF PSYCHIATRY, CRIMINAL RESPONSIBILITY: Topeka, Kan., 1954.

<sup>6</sup> HOCH & ZUBIN, PSYCHIATRY AND THE LAW, N. Y., Grune & Stratton, 1954.

changes could be produced in the psychotic process, was beyond the bounds of possibility. Contrast these attitudes with our present knowledge of motivation, the acceptance of movement, change, and possible improvement in cases of mental illness. While our ability to make significant changes in the psychological constitution of many individuals considered to be abnormal is still limited, we are developing treatment techniques that hold promise of greater improvement for more individuals in the near future. It is this change in basic psychiatric concepts that produces the pressure for changes in forensic psychiatry.

The most famous test of responsibility, the M'Naghten Rule, remains the sole test of criminal responsibility in 29 states today. The concept of irresistible impulse is recognized as an additional test in 14 or more states. I would refer to a recent article by Professor Weihofen<sup>7</sup> for a very challenging discussion of this question, especially from the standpoint of the legal factors involved. My criticism of this and similar articles centers on the assumption that the basic philosophy involved is correct. This philosophy is based on the concept of "free will", that man is free to exercise his will for good or evil. While there may be absolute values of good and evil in a moral sense, it is obvious that legally there cannot be such absolute evaluations, that good and evil are relative values, and shift with the changes in social attitudes. Even such a fundamental prohibition as that against killing our fellow men can change in time of war, when we devote every effort to producing the most effective means of killing our fellow men, and reward those who are proficient at the task. Another flaw in this concept of free will is the failure previously mentioned to consider the part played in any decision by factors that are, in modern psychological thinking, considered to be outside the realm of conscious cerebration, and therefore not subject to conscious control. The concept of the irresistible impulse is a step in this direction. In terms of our diagnostic problems previously mentioned, the additional factor of a disordered perception and understanding of reality must be considered as a factor in many antisocial acts. For example, consider the case of the man who kills his wife in the conviction that he is doing God's will, and is doing good rather than evil. This problem arose in a recent case in this state.<sup>8</sup> Since in most areas the individual was relatively intact, there was marked disagreement among the psychiatrists and lawyers as to his legal sanity or insanity. Yet I am certain that if no crime had been committed, none of the psychiatrists would have hesitated in making a diagnosis of a paranoid schizophrenia.

The logical sequence of events, once the doctrine of free will is accepted, dictates some method for encouraging men to choose good rather than evil acts. In general, in our culture, this has involved the establishment of penalties, punishments for doing evil, rather than inducements for doing good. Our system of justice and law enforcement is based on the concept that sufficiently severe penalties for wrongdoing will inhibit the choice of evil acts, and therefore promote the choice of good acts. As I have indicated, this is an unassailable argument, if the original premise of freedom of will, or choice between good and bad, is accepted. In the light of the

<sup>7</sup> WEIHOFFEN, H., *The M'Naghten Rule in its Present-Day Setting*, FEDERAL PROBATION, Sept. 1953.

<sup>8</sup> *People v. Wolfe*; 102 N.Y.S. 2d 12 (1950) also *People v. Schmidt*, 216 N. Y. 324 (1915). CARDOZO, B., LAW AND LITERATURE. Harcourt-Brace, 1931.

objections already raised to this original premise, the efficacy and validity of punishment as a deterrent force must be re-examined. That there are many indications of the failure of this concept need not be stressed. The high recidivist rate found in many studies of offenders, even for the most serious crimes, and the failure of the severest penalties, including the death penalty, to deter men from the commission of murder, sexual assaults and kidnapping, has been demonstrated over and over again. In addition, psychological studies of offenders of all types, particularly those who commit the more serious offenses, have indicated the importance of unconscious motivations in the commission of these offenses.

If the basic premise, free will, on which we have constructed our system of control-through-punishment, is faulty, as present psychiatric knowledge would seem to indicate, what changes should we consider? And here we come to the speculative and possibly utopian or impractical part of our discussion. In arguing these problems with many people, I have tried to emphasize the practical necessities of the very complex social issues that are involved. For example, the ever present problem of the protection of society from the antisocial actions of the individual while at the same time preserving the rights of the individual. Or, the question of the determination of guilt or innocence, since there is no certain method of detecting truth or falsity in the statements of any individual. This problem would be eased, however, and certainly the question of responsibility would not have to be raised, if the concept of management of the antisocial individual were changed from that of punishment as the main instrument of control, to a concept of the anti-social individual as a sick person, in need of treatment rather than punishment. Again this is nothing new. This proposition has been advanced many times,<sup>9</sup> and has in general been

<sup>9</sup> Prof. Sheldon Glueck in 1925 states, "Our outline of the psychology of mental disorder from the point of view of the analytical schools indicated the need of thorough mental examination of the individual case, and emphasized the artificial nature of the modern criteria of criminal irresponsibility; further, it demonstrated the need of supplying the jury with a simple, scientific background of the nature of mental process and disorder generally, upon which they could project the testimony of trained psychiatrists, and in the light of which the tests would be much less artificial, arbitrary, and unjust in their application than they are today" (p. 434).

"These fundamentals of psychology should in our opinion be judicially noticed by the courts: (1) The unity of mental process and the consequent presumption that a mental disease manifesting itself primarily in one mode of mental activity indicates a disorder of the mind as a unity, and not of the one compartment of the mind which apparently seems alone to be involved; (2) the tripartite, although abstractly separable, nature of mental activity, i.e., the cognitive, conative, affective modes of mental life; (3) certain well established fundamentals of psychopathology, such as: (a) the concept of disintegration or lack of synthesis of the personality; (b) the fact that hallucinations, delusions, obsessions, volitional-inhibitory disorders, abnormalities of the cognitive (knowing, apperceptive, reasoning) processes, disorder of the emotional life,—all abnormal phenomena of this nature,—are evidences of a generally disordered mind, and do not themselves constitute the disease" (477).

"If the socio-legal treatment of *all* criminals, regardless of pathological mental condition, were being considered, it would seem that the simplest device would be to permit the law to convict or acquit as is done to-day, but to provide for an administrative instrumentality (perhaps a commission composed of psychiatrists, psychologists, sociologists and others) to begin to function in the case of convicted persons, at the point where the law leaves off, to determine the appropriate socio-legal treatment adequate to the individual delinquent, as well as its duration" (486-87). GLUECK, S., *MENTAL DISORDER AND THE CRIMINAL LAW*, Boston, Little, Brown & Co., 1925.

rejected, as far as practical application goes. Although the principal appears to be accepted, as for example in the shift of title to Department of Correction and Correctional Institution in many states, the basic attitudes, and the whole construction of our system of justice remain very much the same.

#### PROPOSALS TO REMEDY PRESENT DEFICIENCIES

I submit for consideration the following changes in procedure, based on the change in basic philosophy mentioned above, and, in fact, shifting the emphasis from punishment to treatment;

1. The functions of the law enforcement agencies, the police, the district attorney, would remain essentially the same. They would continue to be charged with the detection and apprehension of individuals committing antisocial acts. The collection of the data necessary for the proper determination of the guilt or innocence of individuals charged with these offenses would also be a part of their function. Many law enforcement officials have contended, and the statistics seem to bear them out, that enforcement of the laws, and the obtaining of convictions for violation of the laws, is improved to a significant degree when the penalties for the violation are less rather than more severe. This appears to be especially true where capital offenses are concerned. It is always necessary to present a very convincing case to obtain a conviction for first degree murder when the penalty is death. Where lesser penalties are possible, the rate of convictions rises quite rapidly. Is it logical to assume, in the light of these facts, that the rate of convictions would be still higher if the penalty for the offense involved proper evaluation and treatment of the individual, rather than punishment? While the logical answer may seem to be 'yes', a complicating factor enters the picture at this point, and confuses the issue. This is the unconscious need that the members of a society feel for a reenforcement of their own restrictive mechanisms through the medium of the example of the consequences of transgression on the part of others. Thus we have the seemingly bloodthirsty and vindictive attitude of society demanding payment in kind for the wrong done, an eye for an eye, a life for a life, as in the ancient "lex talionis". An integral part of this attitude is the concern expressed that the offender may escape the punishment he deserves by pleading insanity and thus shielding himself from society's retribution. If the anti-social behavior of an individual were generally accepted as symptomatic of illness, rather than a moral transgression, it would be possible for society to accept treatment for the illness, rather than punishment for the transgression, as the consequence of such behavior.

Just such a shift in attitude occurred 100 years ago in the handling of those individuals whom we consider today to be mentally ill, when they were taken out of the prisons and placed in hospitals. My present suggestions involve an extension of this concept, to include those now regarded as legally sane, and therefore criminally responsible.

2. The function of the Courts would remain the same, with one notable exception. The problem of determining guilt or innocence, with all of the questions of proper procedure, adequate safeguards for the rights of the individual, proper presentation of evidence, etc. would continue unchanged. The major alteration in procedure would

come in the handling of the guilty offender. Instead of meting out punishment in accordance with a set formula, varying with the type and seriousness of the offense, which may be too short for the proper protection of society or too long for the rehabilitation of the individual, the court would order the offender to a treatment facility, for proper diagnosis and treatment. The length of time the offender would have to remain in such an institution would depend upon his psychological problems, and his response to treatment. It is at this point that much of the disagreement between psychiatrists and the individuals involved in the administration of justice, judges, lawyers, prison officials, police, etc., arises. The invariable comment is to the effect that the doctors, particularly the psychiatrists, are trying to take over the dispensing of justice, and will inevitably be too soft-hearted, so that dangerous criminals will shortly be allowed to roam at large again. We are gaining some experience on this point in the practical application of the indeterminate, one day to life sentence, now being used for some sexual offenses. One of the provisions of this sentence is for periodic reevaluation of these men, from the standpoint of their psychiatric progress, and the consideration by the Board of Parole of these reports, among others, in determining whether a man is suitable for release. Having had the responsibility, over the past three years, for the psychiatric reports on the men in Sing Sing Prison, I am very keenly aware of the difficulties involved in the accurate evaluation of the ability of these men to make a more adequate social adjustment upon their release from prison. In many instances, where the evidence of psychotic distortion of thinking is quite clear-cut, the need for further protection of society is obvious, and the recommendation for further detention of the man can be made with an easy conscience. On the other hand, when a man has been in treatment for a period of time, and appears to have made some progress, the attempt to anticipate his future behavior, and to give an accurate prognosis, becomes a major undertaking. This is, of course, a not unfamiliar problem to those who have the job of deciding upon the release of patients from a mental hospital. Many of the same problems arise as far as the protection of the individual and society are concerned. Quite frankly I do not feel satisfied with the existing criteria for the determination of these important questions. Much of the decision has to be based on clinical judgment, which, being subjective, is prone to variation and error, and is further complicated by the need and attempt of the prisoner being evaluated to put on the best possible show. One of the objectives of our present research is to determine, if possible, valid methods of obtaining the necessary information, and the criteria necessary to predict, with reasonable accuracy, the probable adjustment of a man on parole.<sup>10</sup> The change

<sup>10</sup> See GLUECK, S. and E. T., *500 CRIMINAL CAREERS*, New York, Alfred A. Knopf, 1930, Chap. 18; *ONE THOUSAND JUVENILE DELINQUENTS*, Boston, Harvard University Press, 1934, Chap. 11; *FIVE HUNDRED DELINQUENT WOMEN*, New York, Knopf, 1934, Chap. 17; *LATER CRIMINAL CAREERS*, New York, The Commonwealth Fund, 1937, Chap. 12; *JUVENILE DELINQUENTS GROWN UP*, New York, The Commonwealth Fund, 1940, Chap. 19; *CRIMINAL CAREERS IN RETROSPECT*, New York, The Commonwealth Fund, 1943, Chaps. 20-22; *AFTER-CONDUCT OF DISCHARGED OFFENDERS*, London, MacMillan & Co., 1946, Chap. 6; *UNRAVELING JUVENILE DELINQUENCY*, New York, The Commonwealth Fund, 1950, Chap. 20; and Ohlin, L. E., *SELECTION FOR PAROLE*, New York, Russell Sage Foundation, 1951; GLUECK, S., book review of OHLIN, *SELECTION FOR PAROLE*, 66 *HARVARD L. REV.* (1952), 368-373).



in the attitudes of society that we are discussing would not change this problem to any great extent. They might help in the post-institutional adjustment of the individual by providing follow-up clinics, where these men could be observed for a further period of time, and given further supportive therapy, if necessary, or returned to the institution if it appeared that they were beginning to decompensate again.

An important advantage to be gained from the changes proposed would be the elimination of the question of determining criminal responsibility. At present, this is a vital issue in any case where the punishment is severe. This usually means offenses where the death penalty is invoked. However, the shield of mental irresponsibility is being attempted in many other instances, in the effort to avoid the consequences of the anti-social act.

When such a defense is successful, we may have the following paradoxical situation developing. The individual is found guilty of committing the offense, but is not legally responsible, by virtue of his insanity. Since we have accepted the concept that we invoke punishment as a deterrent and that an individual must be of sound mind for punishment to be effective, we do not impose punishment when a person is insane, and therefore unable to understand or be deterred from further wrongdoing by punishment. Instead he is committed to a state hospital, in New York State to a special hospital for the criminal insane, and may remain there for the rest of his life. This procedure is a completely logical one where the old idea of once insane, always insane, applies. Society is protected from further antisocial behavior of the individual, and the individual has been humanely treated. We begin to get into serious difficulties, however, when the possibility of recovery from the insanity, either spontaneously or as the result of treatment, enters the picture. It is at this point that the punitive concept of justice produces the greatest confusion. What shall we do with this man, already acknowledged guilty of the offense, who is now sane, can think logically, and who would be affected, we hope, by punishment? The answer varies from jurisdiction to jurisdiction, and runs the gamut from complete freedom to the possibility of death, where this punishment is applicable. These inconsistencies could, in large measure, be removed if the punitive aspect of justice were removed.

Would this change in attitude, from punishment to the concept of the antisocial individual as a sick person, increase the amount of antisocial activity, crime, in the community? This is, certainly, one of the critical questions, and one to which we can only give partial answers. Statistics over a number of years indicate a definitely lower rate of homicide in states that have abolished the death penalty, as compared to those states continuing this penalty. Many explanations have been advanced for this, which space does not permit us to discuss. One important reason would appear to be the higher rate of convictions for the offenses charged in states where the lesser penalty applies. If this aspect of law enforcement is a factor, then the rate of conviction should go up, and the incidence of antisocial activity should drop even further if treatment rather than punishment were the rule. Even more important, however, is the question previously raised whether threat of punishment really deters any of the men who commit felony offenses? It is my personal opinion, based on the examination of men in the death house at Sing Sing, that no person in

our society is in a normal state of mind when he commits a murder. I believe this holds even when monetary gain appears to be the sole motive for the offense. In spite of the fact that all of these men, as is the case with the sexual offenders, have been examined by competent psychiatrists, and have been found legally sane, otherwise they would not be in Sing Sing, careful psychiatric and psychological appraisal of these men reveals, in every case, serious disturbances in their capacity for normal affective contact and emotional expression, varying degrees of disorganization of ego function, and serious deficiency in superego or conscience formation. These psychological disturbances result in an impaired or deficient ability to empathize with, and respond to, the emotional pressures in our society. If we accept the concept of unconscious motivation of behavior then these psychological defects become as important, or more important, a source of antisocial behavior than any conscious motivation.

Let me give one brief example of the importance of unconscious motivation in the commission of serious offenses. On the conscious level, the motivation for a sexual offense appears obvious: sexual gratification. Operating on this assumption, castration as a method of handling sex offenses has been advocated and adopted in some countries, and in some States in this country. The logical argument here is quite simple and clear-cut. This individual is unable to control his sexual drives, which by inference are assumed to be excessive. We handle the problem by reducing his sexual drive by removal of the endocrine stimulus for the drive. Does this work? I doubt it. There is no conclusive evidence on this point, with conflicting reports from various sources. From the psychological point of view, we would expect castration to increase, rather than decrease the incidence of sex offenses. Our reasons for this assumption stem from the finding that the unconscious motivation for a large percentage of the sex offenses studied is not sexual gratification. In fact, 68 percent of the men examined deny any or at most partial sexual gratification at the time of the offense. The most common motivation is the attempt to prove that they are sexually potent, that they are not castrated, and that their sexual function is normal. This need arises from the very intense feelings of genital inadequacy and impotence suffered by these men. If we add real physical castration to the psychological castration already present, intensification of the antisocial sexual behavior, which represents the desperate attempts of these men to relieve their feelings of impotence, is almost inevitable. It was the demonstration in the 1950 report of the importance of these unconscious motivations in the sexual offender that led to the passage of the indeterminate sentence provision for sexual offenses. This law is a recognition of the fact that these men are emotionally disturbed individuals, even though they may not be legally insane. The protection of society from further antisocial acts by these individuals was one of the important considerations in the passage of the law. Provisions for psychiatric examination and treatment were included, in an effort to rehabilitate the individual offender. It is my contention that further research, of the type being done on the sexual offender, will furnish us with explanations of the unconscious motivations of other types of antisocial behavior that will be just as revealing as those found in the sex offender, and that the same need for treatment, rather than punishment, will be obvious.

3. I come now to the third, and I believe the least satisfactory, area of application of the treatment concept, and that is the correctional institution. Here is where the greatest changes will have to be made, in order that a concept of treatment might function effectively. While many, and serious, practical problems would arise, as for example the need to continue maximum security functions of the institutions, along with the therapeutic activities, or the problems of education of custodial personnel to accept a therapeutic rather than a punitive attitude, they all are dwarfed by the magnitude of the therapeutic task, and the as yet pitifully inadequate techniques, with which we approach the task. It is, I suppose, a reflection of the relative youthfulness of psychiatry as a medical science, that creates the present inequality between our ability to diagnose and define in rather exact fashion the existence of emotional illness, including fairly accurate speculation about the causes, and our relative inability to change these patterns with present therapeutic methods. This is, of course, the problem that faces every branch of psychiatry today, but I am afraid that in forensic psychiatry, with few exceptions, we have been lagging behind the rest of the field. Most therapeutic efforts have been in the area of psychotherapy, either individually or in small groups. Rare instances of psychoanalytic therapy have been reported. But there has been little effort in the prisons, except in the state hospitals for the criminally insane, to utilize any of the various organic therapies that are available.

Most of the reports about the efficacy of psychotherapeutic methods, and our own experience with the sex offenders is similar, are rather discouraging. There are many additional problems in attempting psychotherapy in the prison setting, that further complicate an already complex process. In addition, if we are correct in our diagnostic formulations, namely that many of these men are schizo-adaptive individuals, then I think we must accept very definite limitations of our psychotherapeutic goals. In contrast to this rather bleak picture, some of our experiments with organic therapy, that is insulin and electroshock, show signs of promise, particularly in relieving the incapacitating anxieties of some of the men, thus improving their ability to make interpersonal relationships. These therapeutic measures are just beginning, however, and at best we know that less than half of the men seen in the sex research project are suitable for such therapy. The remainder are untreatable by any known methods, and present a chronic problem in custodial care, since they continue to have dangerous antisocial impulses.

Much of the dissatisfaction with the application of the indeterminate sentence to the sex offenders has arisen, I believe, from the inability of the psychiatrists to perform the therapeutic magic that many of the legislators and jurists were led to expect. This does not mean, however, that it is a bad law. In my opinion, it offers greater protection to society than the short term, definite sentence laws can provide, and it specifically invokes psychiatric treatment as a means of handling the antisocial individual. These are important incentives to therapeutic progress. That psychiatry is not ready with an easy answer to these very difficult personality problems reflects the youthfulness of our specialty, rather than any unwillingness to utilize research and experiment. Given continued public support, in funds and interest, answers can be found to the vexing problems of the lack of social integration of behavior that we now call criminal activity.