

CHAPTER XV  
THE DERANGED AND DEFECTIVE  
DELINQUENT

*By*

H. DOUGLAS SINGER

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# CHAPTER XV

## THE DERANGED OR DEFECTIVE DELINQUENT

### INTRODUCTION

(By JOHN H. WIGMORE)

I. *The Status of the  
Psychiatrist in the  
Criminal Court.*

The invocation of psychiatry's aid in the criminal trial court is a novelty of very modern times. In Cook County, the Juvenile Court's use of Dr. William Healy's advice goes back to 1908, when the Juvenile Psychopathic Institute of Chicago was founded by Mr. and Mrs. William T. Dummer of Chicago, with Dr. Healy as director.

In 1909, a National Conference on Criminal Law and Criminology (called by Northwestern University School of Law to celebrate its 50th anniversary) resulted in the foundation of the American Institute of Criminal Law and Criminology; and the report of one of its first Committees (on a "System for Recording Data Concerning Criminals"), mainly drafted by Dr. Healy, and published in January, 1910, advocated "the advantage of such work in connection with a trial court." Upon the recommendation of Chief Justice Olson, the proposal of this committee was immediately adopted in the Municipal Court of Chicago. About the same time, Major Edward King (Medical Corps, U. S. A.) had begun using similar methods in the Disciplinary Battalion of the Army at Fort Leavenworth. Since that time, general recognition of their worth and necessity has spread gradually into all parts of this country.

The scope of the investigation of the Illinois Association for Criminal Justice has been limited to law enforcement. An intelligent study of the fundamental causes of crime and of criminal behavior is also needed; but the Association did not regard its purpose or its duty as including that task. Therefore, in this Chapter on the use of psychiatric advice for the disposition of the deranged or defective delinquent, no attempt has been made to discuss causes of crime nor the various theories as to those causes. The report, therefore, does not attempt to set forth or to discuss those portions of the work of the Psychiatric Laboratory of the Municipal Court of Chicago or the Juvenile Research Institute which are directed towards the diagnostic detection and the segregation of the mentally unfit as potential criminals; it only deals with those portions of their work which relate to the trial and disposition of the offender after the crime has been committed.

In a survey of the present kind, the object is to ascertain the extent to which crime in Chicago appears to involve deranged and defective delinquents, the amount and method of use now made of psychiatric advice in the trial courts, and the improvements, if any, in method and scope that may yet be needed.

At this point, obviously, something will depend upon the theory adopted as to the purpose of the criminal law in relation to legal responsibility of deranged and defective persons. One theory may attribute an extensive place to this analysis of the offender's psychic condition, and therefore to

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the role of the psychiatrist; another theory might attribute a very different place.

Today, theories differ. There is a theory of the extremist psychiatrists; and there is an orthodox theory of the criminal law; and there are intermediate theories; for neither psychiatrists nor lawyers all agree among themselves. This is not the place to evaluate the various theories, nor to ventilate the differences between schools of psychiatry. But, for appreciating the general background of the whole transition period of today, in Chicago as elsewhere, the two most opposing theories must here be briefly described. An appreciation of them will better enable the reader to judge of the various needs or demands for using psychiatric advice in the improvement of criminal justice in this state.

(a) *The Theory of  
the Extremist  
Psychiatrists.*

The first passage is quoted from an address before the Criminal Law Section of the American Bar Association, in 1927, by Dr. William A. White (Superintendent of St. Elizabeth's Hospital in Washington, D. C.), whose eminence as a psychiatrist has long been recognized:

"The psychiatrist, in his contact with the legal machinery, finds that the methods of procedure are such as to make it well-nigh impossible for him to mobilize his knowledge in any useful way for the assistance of the courts in dealing with the individual problems that come before them. He has come to feel that the criminal law and methods of legal procedure are based upon concepts which are largely obsolete from his point of view, and that penal methods as they at present exist are quite inadequate to deal with problems of human behavior. The common factor that runs through the whole problem of crime and its various manifestations is the psychology of the individual offender, and the law with its emphasis upon the act rather than the actor he feels has failed to give this factor adequate consideration. \* \* \*

"As the psychiatrist looks at the problems of the criminal law, he feels very definitely that the law and the practice that has grown up under it have originated in the perfectly human desire for vengeance as directed against the offender, and that punishment, which is its main objective, is meted out in response to this underlying motive. And so it has come to feel that the remedies upon which the law seems to repose its faith are hangovers, as it were, from old religious and moral ideas that have survived their period of usefulness in this twentieth century civilization. \* \* \*

"Criminal law, we believe, needs to change its point of view from that directed to the individual offender as a morally perverse person who ought to be punished to the welfare of society. It needs to be socialized. \* \* \*

"If my conviction is correct, and I believe it has ample support, that the whole scheme of the criminal law, founded as it is on a belief in the adequacy of punishment, has its ultimate sources in vengeance, is it not worth while, and is it not time, to examine this system and see whether punishment alone is likely to be longer adequate under present social conditions as we see them developing? \* \* \*

"In a word, my view is that we should free ourselves from the magic spell of words as successfully as we are free from the magic

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spell of the ashes of a blind cat, such words as 'insane' and 'criminal,' and search ways and means to protect society from the dangerous and the antisocial; and having done this, to further develop ways and means for turning back into society, when this is possible, social units that are capable of more efficient and socially valuable functioning.

"I have spoken about the vengeance motive back of the criminal law and of punishment as an outcome of this motive. I have indicated that one of the serious defects of the present system is that this motive still functions, but under a disguise, namely, the disguise of deterrence, which makes it seem like something else. If one really knew the personality of the average criminal, how pitifully inadequate it was to cope with the situation in which he found himself and how logical and understandable his conduct under all the circumstances of the situation really was, it would be very difficult to get oneself into a state of mind that permitted the severity of punishment which the law often requires. \* \* \*

"All of which results in the general proposition that I believe that at the present writing the methods of criminal courts are not calculated to accomplish very much in either preventing crime or reforming criminals; that to take the next step forward methods will have to be developed that are more like the methods in some of our juvenile courts; that the inquiry into a given individual case will have to take into consideration as far as possible all the attendant circumstances and the various ramifications, individual, family and social, not only of the crime, but of the remedial efforts as well; that vengeance and punishment, in fact, all moral issues, should be discharged from consideration so far as their emotional results in vengeance and punishment are concerned; that antisocial conduct should be considered as dispassionately as a broken leg; and that the individuals who cannot get along in the community should be dealt with not as morally guilty but as liabilities from which the community has a full right to protect itself, but toward which the community also has certain responsibilities."

And on another occasion (Journal of Criminal Law and Criminology, 1923, XIV, 62) the same eminent authority thus concisely states his view:

"Strangely, and for what reason I know not, the expert who is not permitted to say that the defendant is sane or insane, because that sacred duty resides with the jury, is permitted to say whether in his opinion the defendant was responsible or irresponsible at a certain time. . . .

"The principles which I advocate are that the criminal, and not the crime, should be made the matter of prime consideration, and that the sentence, or better, the decision of the court, should be calculated to *cure the social illness* as it has been shown to exist in the conduct of the defendant. All cases of pneumonia are not treated alike just because the disease happens to be pneumonia. The patient is treated and allowances have to be made for age, previous condition of health, of resistance, etc. The patient is treated, and not the disease; and it is as illogical to sentence the person who has committed a certain offense to a specific term of imprisonment as it would be to decide, when a patient is admitted to the hospital, the day upon which he shall be discharged."

Another summing up, for the psychiatrist, is found in the presidential

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address of Dr. Charles W. Burr (professor of mental diseases in the University of Pennsylvania) at the annual meeting of the Eugenics Research Association, in 1925:

"Psychiatrists contend that the legal definitions are arbitrary, unscientific, and untrue. They maintain that criminality is a state of mind, that there are a certain number of people who, either because of inherited or congenital twists in mental makeup, or from acquired disease, are so unlike the rest of the community in which they live, that they are asocial and hence criminal; that there are people who can not be taught a sense of duty toward their fellows, people who are morally color blind; that a man may be a criminal and yet never commit a crime, because his environment is such that he can satisfy all his desires without coming in conflict with the law, and finally, that putting to one side the question of free will in normal people, the criminal is so controlled by emotional impulse that reason plays a very minor part in his life.

"To the psychiatrists, therefore, the criminal's act is of secondary importance; his mental make-up impelling him to it is the primarily important thing which stamps him as belonging to a species mentally unlike his fellow men. *The act is, therefore, merely a symptom to be interpreted.* In law, the act itself is the thing which makes the man a criminal. \* \* \*

"From still another point of view, law and psychiatry are antagonistic. Law today maintains (it gave up the notion of vengeance long ago) that the purpose of punishment is to deter others, to keep the criminal out of mischief forever or for a time and to give him an opportunity to think over the wisdom of changing his mode of life. The thoroughgoing psychiatrist maintains the criminal is an abnormal man, who should be treated as a patient and when, as is usually the case, the abnormality is congenital and the result of heredity, there is no hope of cure; when it is the result of acquired disease, the outlook is a little better. \* \* \*

"My conclusions are: That man is an emotional animal rather than a reasoning one, that he possesses a social instinct (bound up with the moral sense) which is the foundation stone of civilization, that the moral sense is potentially present in all normal children, that wise education and good environment can strengthen it by training, and bad environment, save in the highest types, can and does destroy it, that the criminal, in the very restricted meaning of the word as used by the psychiatrists, is either born without capacity to develop the social instinct and the moral sense, or has lost them by disease, and that such criminals, though not responsible, should be segregated for life, or, if they are of the type that murder or commit rape, should be executed because they are a menace to the state and to the race."

The practical application of extremist views, in criminal trials, may be seen in the findings at the Loeb-Leopold trial in Chicago in 1924, of the four psychiatrists called by the defense, Dr. William A. White being one of them (Journal of Criminal Law, etc., XV, page 371, 279):

"We could draw no other conclusions from *Leopold's* abnormal phantasy life, his delusional development of notions about himself, his defective or deteriorated judgment which has not permitted him to see the pathological absurdity of mixing up phantasy and real life; his

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repression and misplacement of emotional life; his abnormal urge towards activity and search for the experience of new mental and physical sensations; his disintegrated personality to the extent that he has shown an essential and abnormal lack of foresight and care even for his much beloved ego—we can draw no other conclusions from the above than that Leopold is and was on the twenty-first day of May, 1924, a thoroughly unbalanced individual in his mental life. \* \* \*

"It is evident from the foregoing that in *Loeb's* case we are dealing with an adolescent who in his development has manifested a markedly pathological divergence or split between his intellectual and emotional life, so that while he may be considered mature intellectually, he is decidedly infantile in his capacity for reacting to the ordinary situations of life with normal, appropriate emotions. His whole behavior in connection with the Frank's case before and after its occurrence and up to the present moment, indicates a degree of callousness which is wholly incomprehensible except on the basis of a disordered mentality.

"The opinion is inescapable that in *Loeb* we have an individual with a pathological mental life, who is driven in his actions by the compulsive force of his abnormally twisted life of phantasy or imagination, and at this time expresses himself in his thinking and feeling and acting as a split personality, a type of condition not uncommonly met with among the insane.

"We therefore conclude that Richard Loeb is now mentally abnormal and was so abnormal on May 21st, 1924, and, in so far as anyone can predict at this time, will continue, perhaps with increasing gravity, as time goes on."

(b) *The Theory of  
the Moderate  
Psychiatrist.*

The attitude of the moderate psychiatrist towards criminal justice has been excellently set forth in the following passage by Dr. H. Douglas Singer, the eminent psychiatrist to whom this portion of the present Survey was assigned:

"Criminal justice is concerned with the regulation of human behavior in conformity with standards that are expressed in the law. Violations of law may occur as the result of many different causes; in all of them the state of mind of the violator is an important factor. This is true whether the motive for the crime is ignorance, cupidity or insanity.

"So long as the law was concerned only with 'making the punishment fit the crime' there was no need to take into account the *causes* for a crime. Recognition that acts of a criminal nature may sometimes be the outcome of mental disease was embodied in the law, and there then arose the necessity for devising means to determine, when a doubt arises, whether a person accused of crime is sane. Knowledge of mental diseases and their recognition is a highly specialized branch of medicine and is acquired only from long training and experience such as is not contained in the general medical curriculum. Consequently, courts have sought the advice and assistance of experts in this field when the possibility has arisen that some criminal act is the outcome of mental disease.

"Medical science has gone far beyond the study and recognition of the grosser forms of mental disease, which are those that used to be labeled insanity. As a result of investigations of human behavior in health and disease physicians have been led to recognize that there are many forms of disordered or unusual behavior, other than that

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called insanity, which demand scientific study for their understanding and treatment. Among these come much of what is called crime. The more recently acquired knowledge in this field has not yet been absorbed by the law. One consequence is that the courts and the psychiatrist in some respects talk a different language. The psychiatrist speaks of criminal behavior as abnormal or disordered behavior and is able frequently to throw light on the mechanisms of its causation as well as to recognize and forecast something of its course and outcome. To the jurist who recognizes only the alternatives of sanity or insanity, statements such as this seem to indicate that the psychiatrist regards all crime as evidence of insanity.

"These misunderstandings necessarily minimize the value of the expert to the court. If he endeavors to formulate in his opinion the views he holds of the abnormality of criminal behavior he is liable to be understood as trying to relieve the criminal of his just deserts. Even though such opinions are entirely honest and might, if heeded, result in far more effective disciplining of the offender, they serve at present, as the law now stands, only to introduce confusion and distrust. Until scientific progress has become sufficiently established to bring about modifications in the law, the psychiatrist who would be of service must use the language of the law. This does not mean that he should not endeavor to educate the public with the object of securing the adoption of changes that seem to him desirable. The law has been built up gradually on the basis of experience; its seemingly unnecessary restrictions and formalities are founded on objections and injustices that may not be obvious on the surface. They cannot lightly be cast aside.

"To the psychiatrist the term insanity has come to mean only the legal or social aspects of a mental disease. He no longer uses the term in a medical sense. In medical parlance the statement that a person is insane means that the disease of his mind is such that he is in need of commitment.

"To most persons without special training the conditions labeled 'insanity' constitute a definite entity, the existence of which can be detected and demonstrated by the application of specific tests. There are, however, many different forms of mental disease and no specific tests of sanity are available or even possible. The conduct, words, thoughts and feelings of persons with mental disease are merely distortions and exaggerations of those of persons who are mentally well. No specific line can be drawn between normal and abnormal behavior; what is normal under one set of circumstances may be abnormal under another. It is only when the distortions or exaggerations become extreme that they are labeled mental disease.

"The situation with regard to mental disorders that are less obviously describable as mental disease is naturally even more indefinite and open to differences of opinion. It is from this group that come the cases which give rise to criticism of experts in the administration of justice. Some psychiatrists believe that disease or defect in some part of the body will eventually be found underlying all these disorders; others contend that a sufficient explanation is present in faulty training and habit formation. All agree, however, that certain mechanisms and a more or less consistent evolution of much criminal behavior can be recognized and that conclusions can be drawn as to remedial measures and outcome. When the physician is asked to state merely whether a

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man is sane or insane it can readily be understood that there is every opportunity for differences of opinion.

"It may be conceded at once that the criminal law has been evolved to deal with the type of behavior that is called crime, regardless of the views of physicians as to causes and treatment. That it has not been completely successful is obvious. Society has been brought to realize that criminal acts are sometimes the result of disease and much effort has been expended in attempts to formulate exact definitions of such disease. Even though society tacitly recognizes that 'crooks' differ from the average person, it still has not openly reached the conclusion that criminal behavior is abnormal behavior.

"The distinction that is made between an act that shall be called crime and one (possibly exactly similar in kind) that results from disease is that the former is *wilful* misbehavior, outcome of *an abandoned and malignant heart*, whereas the latter is *not chosen* because it is the result of disease. This distinction is expressed in the legal concept of *responsibility*, a concept that has no counterpart in medicine. An insane man is said by the law to be not responsible because his conduct is controlled by disease; a sane man is responsible because he chooses to act in the way he does. The physician does not concern himself with such abstractions—his concern lies in trying to determine why the man committed the act and how to remedy it. He wonders why the courts do not think in the same way and cease to worry about free will and responsibility. But the definitions of insanity adopted by the courts are not concerned with the nature of the disease that is present; they deal only with the question whether the person at the time of the offense had sufficient mind (1) to know that the act was wrong, and (2) to be able to choose the right and refrain from the wrong. In the eyes of the law a man may be sane with respect to one transaction and insane with regard to another. This is confusing to a physician. But it is to be remembered that the courts deal with one transaction only and have endeavored to prescribe the standards by which the question of sanity or insanity as regards this particular act can be answered.

"From a practical point of view, does it make any real difference whether we label a man responsible or irresponsible? Would it be not equally pragmatic to hold everyone responsible for his acts, whether sane or insane, and then to adopt measures that will: (1) insure society against further criminal acts on the part of this person; (2) establish clearly that society cannot, for its own protection, tolerate such acts regardless of the reasons back of them, and (3) rehabilitate the offender if that is possible? These purposes are all that are hoped for from punishment; the introduction of the mythical concept of responsibility merely clouds the issue.

"Thus, from the psychiatrist's point of view the question is not one of abolishing responsibility, but of ignoring it, and of planning treatment to fit the offender rather than his offense."

- (c) *The Orthodox Theory of the Criminal Law.* The possible purposes of the criminal law as a system have been defined under four heads: (1) The theory of *deterrence of the multitude*; (2) the theory of *disablement of the individual offender*; (3) the theory of *cure to the individual offender*; and (4) the theory of *revenge or retribution on the individual offender*.

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(1) The theory of *deterrence of the multitude*. This is the primary and essential function of the criminal law. By its penalties, it aims to repress crime in mass. This aim is not concerned with the individual offender now caught and in court; otherwise, it would be *ex hypothesi* entirely a failure, for he was in fact not deterred. This aim concerns the multitude who have *not yet* offended. Its degree of success is measured by the ratio between actual offenses and possible offenses.

This theory controls the logic of most parts of criminal law and procedure. Its application to the deranged or defective offender is noted below (sec d). Here is to be emphasized merely that it is supposed to operate solely by its *threat of penalties* for prohibited acts, and that it is directed to the *multitude at large*.

This latter aspect is the one that is always forgotten by the extremist-psychiatrists. But it is nevertheless the primary and essential aim. Without it, the criminal law system would cease to be what it is, even if it retained the other aims.

(2) The theory of *disablement of the individual offender*. This and the other two theories turn to the individual offender, now caught and before the court. Obviously the deterrence aim has failed, for him, and thus the other aims now come into play. The criminal law system, having caught him, and having the machinery for the other purposes, now proceeds to apply them to *him*. All three of the other aims are also accepted by the criminal law, but as subordinate ones, to be effected so far as possible.

The *disablement* theory required that this particular offender be disabled from repetition of his offense, if he appears likely to repeat it. This means confinement, short or long, fine, great or small—a warning only, perhaps—but not death. Death is called for by the deterrence aim only; i. e., as a threat to the multitude of potential committers of similar intolerable deeds. But the offender's psychic condition may need psychiatric advice, as to the measure needful for disablement.

(3) The theory of *cure of the individual offender*. This aim, also, the criminal law accepts, though as subordinate. It is here that modern criminal law has progressed far beyond the older criminal law. The laws permitting indeterminate sentence, parole and probation, rest on the theory of cure. It is here also that the psychiatrist and the sociologist come most prominently into the foreground, as necessary advisers of the court and the prison authorities.

It is here also that appears the confusing conflict between the dictates of Aim 1 (deterrence of the multitude) and Aim 3 (cure of the individual). For Aim 3 may be satisfied with a mild warning, or with a committal to better family surroundings, or with hospitalization, etc. And yet Aim 1 may be totally defeated thereby, if the multitude of potential offenders, on observing this mild "treatment," loses its fear of the unpleasant threat of the law, and takes courage to do similar antisocial deeds.

This conflict-point between the two aims has become increasingly frequent with the spread of modern psychiatric and sociologic science. It has caused too many thinkers to forget all about the requirements of Aim 1. And yet that aim *must* be achieved by the criminal law; else the community

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will become the prey of the undeterred self-seeking aggressor (in all ranks of life); for every community always contains a fair percentage of wilful egocentric persons who would live by the club or by chicanery if they dared to.

This conflict between the dictates of the two aims is an ever-present problem for the criminal law, in modern times. It cannot be escaped. Human skill in the legislature and on the bench being limited, we can not hope to attain a perfect solution. Often we find merely a muddle. But at least those who do thinking on the subject should realize just what the problem is.

(4) The theory of *retribution*, once prevalent in the most primitive periods, is now long discarded. Some psychiatrists seem to think that it still is maintained by the law. They are in error,—at least as to the *professed* theory of the criminal law.

Nevertheless, though this theory is not and never could again be *per se* the sufficient basis of any part of the criminal law, all experienced observers know that this feature—retribution—does serve as a useful by-product of criminal justice. Sir James Stephen once wrote, "The criminal law is in part a system of licensed revenge." What he meant was this: When a mean dastardly act does injury to a helpless victim, the natural sentiment of the family and the neighborhood demands retribution on the doer. But law and order, after centuries of effort, have succeeded in prohibiting any action of self-redress based on this sentiment. None the less, it is there, as a fact, in too many cases. And it will break loose and defy the law, unless occasionally it gets gratification. Whenever, therefore, the criminal law imposes a penalty, under its own Aim 1 together with Aim 2 and Aim 3, then this Aim 4, though *not professed or accepted by the law itself*, may seem to the family and the neighbors to be given effect. Thus they go home with their crude moral sense of retribution gratified. Their instinct for self-redress is allayed.

As a by-product only, therefore, it is undeniable that Aim 4 at times does render a useful service in keeping the community peaceful.

(d) <i>Same: Application to the Deranged or Defective Offender.</i>	Going back then to the primary Aim 1 (deterrence of the multitude), we must ask, What are its logical dictates as to the deranged or defective offender?
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The deterrence aim is effected by the constant threat of a penalty for a specified act. Now concrete analogy is often more illustrative than any amount of abstract exposition. For an analogy to the criminal law's threat, let us take the case of *robbers in a church*.

On a Sunday morning, at 11:30, a congregation of 300 persons is quietly seated within a church. Suddenly, at the church entrances, appear two professional robbers pointing automatics at the congregation. "Don't move. Let each one singly leave his seat, file by us and drop his coin and his watch into this basket, by the door. Any one who calls out or leaves the room or draws a weapon will be shot." What happens? The vast majority, of course, sense the inevitable and gradually do as ordered.

But there are two or three "abnormal" classes of persons in the congregation. (1) In the first place, there are some young children, who never

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saw a pistol fired, but realize that there is terror in the air. They cry out and are shot down. (2) In the next place, there may be a blind man, who also misunderstood the words of the robbers and thought that the congregation was being dismissed. He rises and starts to find his way out. He is shot down by the robbers. (3) In the third place, there are two or three hysterical women; they understand perfectly what is happening, but cannot control their nervous inhibitions, and they burst into shrieks. They are shot down by the robbers. (4) And in the fourth place, there are a few cool and daring men, who as the procession begins to file past the basket, take a chance and break for the door, hoping to escape the vigilance of the robbers. They, too, are shot down.

The result is that the congregation is speedily cowed and submits. Now, comparing those four classes of persons, there is a difference between the cases of the first three and the fourth. All four killings are of course illegal and immoral, from the point of view of the law and the community. But the first three seem to us particularly cruel and sad. The little children were mentally incapable of understanding the danger; the blind man was in the same plight; and the hysterical women simply could not hold in. To all those three classes, *the robbers' prohibition and the threat meant nothing*. They were incapable of acting according to its dictates. How cruel, then, to kill them! On the other hand, the bold men who tried to escape and give the alarm knew perfectly well what the prohibition was, knew what the penalty was to be, and took their chance. They were heroes. But the moral attitude of the robbers in shooting them does not excite the same horror.

Turning then to the criminal law, we start with the proposition that its Aim 1 is *repression*—repression of the multitude from doing specified acts. But it follows logically that three classes of persons, being incapable of acting in accord with the threat, should not be penalized, because it would be futile; viz., first, children too young to understand the threat; secondly, adults mentally incapable of understanding it; and thirdly, adults understanding it, but incapable of controlling their inhibitions. Now obviously no rational system of repression would expect to impose its penalties on those three classes of persons. Nor does the criminal law expect to.

But the three classes differ between themselves in certain respects affecting the penal law:

(1) Children, being immature, require different treatment by the law in its Aim 2 (disablement of the individual) and Aim 3 (cure of the individual). Hence, juvenile courts, etc., etc.

(2) Adults, not capable of understanding the law's prohibition, give rise to two great questions.

In the first place, the acts forbidden by the criminal law are sometimes intrinsically immoral acts, sometimes not; e.g., murder and rape are (by universal opinion) immoral; but peddling without a license and using the national flag for advertising are not or may not be. Hence, in the latter class of prohibitions—so-called police measures—the offender's mental or moral innocence is often by the law (in all countries) deemed immaterial; the act itself is penalized, regardless of intent. So that the immunity for persons not capable of understanding the prohibition applies naturally only to for-

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bidden acts having a moral basis. Hence, the current orthodox legal definition of insanity, as incapacity to distinguish between right and wrong, is logical.

In the second place, this definition of insanity has become the battleground between psychiatry and the law. Psychiatry defines insanity, etc., very differently. Enough here to point out (recalling the analogy of the robbers in the church, and the repression aim of the criminal law) that the criminal law is perfectly logical (in a broad sense) in using this definition, because it would be irrational if it did not exempt from its repressive threats those who were incapable of understanding the purport of the threat. Conversely, if they understand it, the repression threat answers its purpose.

(3) Adults who understand but are incapable of controlling their inhibitions, represent an exception that has found acceptance by the criminal law in recent times only. But it presents a problem of its own. Theoretically, it is sound enough. But practically it is readily counterfeited. Moreover, the shading off between that ordinary "uncontrollable" anger which any of us might feel but could and should control, and that psychically irresistible impulse of the diseased mind, is hard to distinguish. So that this exemption gives rise to notorious instances of "failures of justice," like the recent Remus case in Ohio.

In both the foregoing classes of persons, then, the theory of the criminal law is logical enough, when the fundamental aim of *repression* is kept in mind. But the totally different classification of psychic disorders by the psychiatrist for therapeutic purposes, and the possibilities of practical abuse of any legal definition, have led naturally to controversy, confusion and ineffective administration.

(4) As to the fourth class of persons—the bold defiant adult, who understands the prohibition, appreciates the threat, but is ready to take the risk—those are the persons as to whom the criminal law has no scruple. By making an example of them, it accomplishes its great Aim 1, the repression of the rest of the multitude.

Recurring to the analogy of the robbers in the church, the relative success of this repression aim can be figured out. If the robbers should miss their aim on the first few men who tried to escape, and if more men, less bold, should then take courage to try also for escape, or if the robbers' guns fail to work and the robbers lose much time trying to put the guns into action, there may soon be a stampede of many in the congregation and the robbers' repression system breaks down, partially, at least.

So, too, with the criminal law. *Speed* and *certainly*, as all agree, are the prime requisites to its efficacy. The constant and obvious escape—whether by delay or by uncertainty—of those offenders who would naturally be made examples of, will give courage to the other potential offenders. To that extent the criminal law "breaks down."

But in the church incident there would always be a large majority of timid or indifferent persons who would not try to escape. So, too, in any community at large, the great majority are always too timid or too cautious or too law-abiding to attempt to break the criminal law, even when it functions poorly with actual law-breakers. In short, so long as a system of

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criminal laws and courts is openly and regularly operating, the repression aim is being effected, even though more or less imperfectly. The so-called "break-down" at various places or times, should never induce us to forget that the repression aim of the criminal law—its fundamental one—is always silently operating in some valuable degree, upon all of us, who never are haled into court.

The foregoing outline of the respective attitudes of psychiatry and criminal law will assist in judging how far the use of psychiatric advice for the trial courts of Illinois in dealing with abnormal psychic types can be improved and extended.

### (I) LAW AND PROCEDURE IN ILLINOIS

#### 2. *Scope of a Psychiatric Examination.*

To many persons a psychiatric examination has come to be understood as the application of a set of tests by which the mental age is measured. It is extremely doubtful whether tests of this kind have any value in the study of persons above school age; even in children the tests are not relied on alone to determine the presence of feeble-mindedness. When used at all these tests constitute only a minor feature in any psychiatric study. Indeed, it seems to have been proved that, with such tests, convicts in a penitentiary rate about the same on an average as the average of persons in the communities from which they come.

A psychiatric examination is a study of the kind of behavior shown by the person under study. How has he reacted to circumstances throughout his life? This is discovered by a scrutiny of his life story as given both by himself and by others and includes the conditions he has had to meet as well as the manner in which he has met them—his school, home, work and play life; his interests, ambitions, hopes, fears and the way in which he has dealt with them; his manner of expressing emotion, his balance and poise; his habits and associations. His manner of behaving at the time of the examination is studied by investigating his memory and appreciation of the facts of the world around him, his emotional responses, thoughts and conclusions in response to situations placed before him by means of questions and requests for action.

The direct observations of the man himself are supplemented by the stories told by relatives, friends and others who have had opportunities to observe him at various stages in his career and under various conditions. This serves not only to establish the facts but also to check the statements of the man himself as to their validity and significance.

The two features outlined are by far the most important part of the examination. In addition, it is desirable to study the functions of the body organs, particularly of the nervous system; consideration is given also to the history of the family from which the man is descended with the object of discovering evidences of faults in the stock. These phases of the examination, however, can never establish the fact of insanity; they can offer only a possible explanation for its existence, if present, and some clues as to the nature of the disease.

This brief summary of the nature of a psychiatric examination is given

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not only with the purpose of removing some misconceptions, but also to serve as a foundation for outlining in a later section the facilities needed by the expert if his opinions are to have the full weight of which they are capable. It may be pointed out further that the time and facilities needed for an examination vary with the nature of the case and the purpose of the study. The fact of insanity can often be detected in a brief examination; if this is to be followed, however, by recommendations for treatment and a forecast of the probable outcome of the disease much more detailed study is required. It is not the obvious examples of mental disease that give rise to spectacular trials; these concern cases of less well defined behavior disorder that belong popularly in the category of criminality—in which, as stated, many psychiatrists see a real mental deficiency of some kind—or cases in which the accused man endeavors intentionally to sham the behavior of a person suffering from a serious mental disease. These will often demand much more prolonged study if justice is to be served.

3. *Sources of Information.* One of the great difficulties that has confronted this committee is the fact that no special records have been kept of cases in which the mental condition of persons charged with crime has been questioned. It has been necessary, therefore, to search for them through various channels. Much was learned from the files of the Chicago Crime Commission which were placed freely at the service of the committee. Through the courtesy of the state's attorney, the committee was allowed to examine the records of payments made for the services of alienists and through them to learn the names of many defendants and docket numbers of cases in which the sanity of the defendant had been investigated. With this information it was possible in many cases to discover further details by studying the files in the office of the Crime Commission.

Valuable assistance has also been rendered by the superintendent of the Cook County Psychopathic Hospital, Dr. F. J. Gerty, who not only placed all records at our disposal and assisted in search for material needed, but also met with the committee and gave useful suggestions for further investigation.

The managing officers of the state hospitals at Chester, Chicago, Elgin, Kankakee, Dixon and Lincoln have also cooperated fully in supplying information concerning patients who have been committed to the institutions.

The officers of the Institute for Juvenile Research, including Dr. Paul Schroeder of the headquarters staff, Dr. Walter B. Martin, mental health officer at Joliet, and Dr. David P. Philips, mental health officer at Pontiac, St. Charles and Geneva, have supplied detailed figures and information without which many of the facts could not have been compiled.

The committee is also indebted to Judge Arnold of the Juvenile Court, and to Judges Olson and Trude of the Municipal Court for valuable suggestions and advice. Other material has been supplied from the records of the clerks of the Municipal and County courts. Free use has been made also of reports of the Juvenile, Municipal and Criminal Courts and of the Institute for Juvenile Research.

The committee is also indebted to the officers of clinics in various cities for information concerning their work, much of which has required a great

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deal of work for its compilation. These are acknowledged individually in the text of this report.

4. *Definition of Insanity.* The relations of psychiatry to the administration of justice are necessarily close. Both are concerned with the regulation of human behavior. When the subject is discussed, the first and sometimes the only thought that arises is that insanity is used as a defense for crime. In addition, however, to determining whether a person accused of crime is sane in a legal sense, the psychiatrist is insistent on the recognition that there are forms of mental disorder which are not insanity but which are capable of definition and require special consideration in the determination of treatment that is needed. In other words, the psychiatrist recognizes that a small proportion of persons who commit criminal acts are legally insane and need purely medical treatment in a special type of hospital; others who are not insane in this sense need special treatment in institutions of penal or correctional character. Furthermore, he contends that psychiatric methods will aid in deciding whether and when probation or parole should safely be granted. Consequently, it is necessary to consider our subject under various headings according to the stage in the trial, the nature of the offense, the age of the offender and the type of the mental disorder. Unfortunately, the facts available are in many particulars incomplete, largely because of the absence of routine psychiatric examinations and partly because of the lack of records and of time for investigation.

The first and principal topic of our study concerns the determination of the sanity of persons charged with crime.

In Illinois, the legal *definition of insanity* as it relates to the commission of crime is that the person, at the time of the offense, had not sufficient mind either (1) to know that the act was wrong, or (2) knowing it to be wrong, to be able to choose the right and refrain from the wrong. The second part of this definition—the power of choice—is a comparatively recent addition and is not included in the definition of insanity in use in some other states. It has sometimes been hailed as evidence of a great advance in the legal understanding of mental diseases; unfortunately, however, it has not carried with it the machinery necessary to make it practically useful. This phase of the definition leads to many differences of opinion, for the reason that many students of behavior regard all acts as the outcome of inherent or instinctive tendencies together with habits of reaction that have been acquired through experience. Since a man cannot select his inheritance and has little to say about the environment in which circumstances place him and from which he acquires his habits of behavior, such a view leaves little to the question of choice.

From a medical viewpoint, that is to say the treatment of the faulty behavior, such considerations are of little import. When the social relationships are in question, however, they are of the greatest significance. Under existing conditions in relation to the determination of insanity there would be less difference of expert opinion if the second phase of the definition was omitted.

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5. *Determination of Insanity.* Under the law, the determination whether a man accused of crime is sane or insane is a question of fact for a jury, composed of persons who are presumably entirely ignorant of mental diseases and their recognition, exactly as is the testimony of witnesses to facts surrounding the alleged crime.

In Illinois, a person accused of crime is assumed to be sane only until a *prima facie* doubt of his sanity has been raised. Once this doubt is injected the assumption of sanity ceases and it becomes the duty of the prosecutor to establish the sanity of the accused beyond a reasonable doubt. If, after hearing all the evidence, the jury is not morally certain that the prosecution has proved the defendant sane at the time when the act was committed, it is the duty of the jury to find the defendant insane and therefore not guilty.

The determination of insanity becomes especially difficult when it is alleged to have existed only at the time of the crime and to have disappeared when the defendant comes under observation. Examination at the time of the existence of the alleged disease is not possible and the diagnosis must rest on a history of what happened. In almost every instance this defense is offered when there is no question that the defendant committed the offense and that he did so in a moment of passion, even though there is evidence of premeditation and planning in advance.

When examination is possible, it is usual to call experts to study the accused and testify as to their findings and the conclusions they reach. Under the law, however, any citizen can testify that he believes a defendant insane. The only requirement is that he must first detail to the jury the facts of observation on which he bases this opinion. The expert is subject to the same conditions in regard to his examination of a defendant. The expert differs from a lay witness in that he is allowed to give reasons for his opinion and is also allowed to base an opinion on an assumed state of facts.

6. *Selection of Experts.* Insanity being a complete defense for crime, an accused person has the constitutional right to introduce such evidence as he can secure to establish his insanity, which means that he is not guilty. He has therefore the right himself to employ experts and submit their testimony to the jury. Since the burden of proving sanity, once a doubt has been raised, is on the prosecution, the state's attorney has also a right to introduce expert testimony in rebuttal of a defense of insanity. The prosecutor, however, is at the disadvantage that the defendant may himself or through counsel refuse to submit to an examination by experts for the state on the constitutional grounds that such examination by proving him sane might tend to incriminate him. When such a refusal is made, and it has been frequent, the prosecutor must wait until the evidence by which the defense expects to establish insanity has been introduced before learning the facts and must rebut them, if possible, by observation of the behavior of the defendant in court, by cross examination of the experts, if any, employed by the defense, and by evidence from others who may have had an opportunity to observe the accused and who are willing to testify. Under those circumstances, the opinions of experts employed by the prosecution must be based entirely on the facts testified to at

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the trial. Should the defendant refrain from taking the witness stand the information to be gained from observing him directly is extremely meager.

To meet this situation, and also to secure advice as to the procedure to be followed, the state's attorney has on several occasions of which we have been able to learn, employed experts to study the accused as part of the investigation of the crime prior to indictment. The cases were those of Loeb and Leopold, Sam Vinci, Harold Croarkin, and one other in which no indictment was returned. This procedure has been approved by the courts and offers a possible solution of the difficulty in securing examinations.

The established procedure is that the prosecution and defense each select experts to represent them at the trial. This has led to the criticism that the opinions so secured are liable to be partial and prejudiced. Consequently, there has been agitation, in which the experts themselves have joined, for the development of some method for securing services of experts in a nonpartisan manner. Whatever method is adopted, however, none can abrogate the right of the defendant to employ his own experts. It is claimed that the weight attached by a jury to the opinions of witnesses selected in a nonpartisan manner would be greater than that accorded to partisan witnesses in the case of a disagreement.

The principal efforts in Illinois have been directed toward the appointment of impartial commissions. In some instances they have been appointed by the presiding judge; sometimes the members of the commission have been of his own selection, sometimes at his request by the Chicago Medical Society (these commissions served without remuneration which is manifestly unfair). In one such instance the committee appointed by the medical society had to report only that the accused (Russell Scott) refused to see them. In another, in which a commission was appointed by the judge with the consent of both sides, the defense refused to accept the findings and appealed to the Supreme Court on the basis that the court did not allow them to cross examine the members of the commission (Geary case).

In some cases a commission has been appointed by agreement between the prosecution and the defense, each side selecting one member and these two selecting a third. An agreement of this kind at least renders it more probable that the accused will submit to examination. When there is considerable doubt of the fact of insanity, however, an agreement is not likely to be reached and the defense will prefer to employ only experts of its own selection.

There is also no assurance that the members of a commission will agree in their opinions, any more than may the judges of the Supreme Court. In this connection it may be pointed out that the prosecution has to establish sanity beyond a reasonable doubt; disagreement between the members of a commission would be liable to leave such a doubt in the minds of a jury and necessitate a verdict of insanity. This is liable to be regarded as a handicap by the prosecutor, though this objection would have little validity if the members were taken to insure that all members of the commission were qualified to serve as experts.

Even in Massachusetts, where it has been provided by statute that in capital cases and under some other conditions an examination shall be made

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by experts appointed by the Department of Mental Diseases (an official body corresponding with the Illinois Department of Public Welfare), the accused has successfully refused to submit to examination and has, in a few instances, claimed his constitutional right to avoid incriminating himself. A similar measure has been suggested for adoption in Illinois, but so far nothing has been done.

In some states provisions have been made for the study of persons accused of crime, whose sanity is in question, in special hospitals, as at Bellevue Hospital in New York. In Cook County, the county judge has ruled that he is prohibited by law from receiving at the county psychopathic hospital persons who are charged with crime.

From the discussion it seems doubtful whether the commission method of examination, even though it has some advantages, offers a satisfactory remedy for the acknowledged defects in the method of selecting experts. Until substantial changes are made in procedure, which will be discussed in a later section of this report, it appears probable that the selection of experts by both sides will remain the customary procedure.

#### 7. *Qualifications of Expert Witnesses.*

An expert is a person who, as the result of special study and experience in the subject under consideration, is entitled to speak with authority in regard to it. It is the province of the presiding judge, when an objection is raised that a witness purporting to be an expert is not in fact an expert, to determine whether the witness is so qualified. The determination of this important point under existing circumstances, therefore, does not arise until the trial is in progress. This means that the qualification of the expert to speak as such is not determined until all examinations have been made and the case has been prepared with, perhaps, this particular opinion as one of the chief links in the chain of evidence.

The judge will consequently hesitate to rule out the testimony of any man offered as an expert provided there is some basis for allowing that he may have had opportunity for special experience, and will prefer to leave the jury to decide which of opposing experts is deserving of greater consideration. The jury, being ignorant of the qualifications necessary, is far more likely to be governed by the appearance and assurance of the witness than by his real knowledge of his subject. The man who is ignorant is far more likely to be emphatic and to be governed by popular beliefs that would appeal to a layman than is the real expert who will often appear to be uncertain because he knows the limitations of his science. Though physicians recognize that graduation in medicine does not imply expert knowledge in psychiatry, this is not generally appreciated by men in other walks in life.

Nevertheless, if the courts are to receive real assistance from the services of experts, their qualifications are fully as important as their integrity. It, therefore, seems important that some means should be devised whereby the qualifications of experts can be determined, in advance of their employment by either side or by the court, by some agency familiar with the requirements. The qualifications necessary can readily be standardized with sufficient latitude to admit all kinds of training and experience.

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That this matter is in need of consideration is well shown by a survey of the qualifications of physicians who have served in the capacity of experts in the courts of Chicago. It had been hoped that the committee would be able to secure the data on this point from the testimony of the physicians themselves in court. The state's attorney willingly consented to allow access to such records as he had, but it was found impossible to locate the transcripts of the testimony taken in the trials even though it was known that such transcripts were in existence. Recourse had to be had, therefore, to such information as is available in the directory of the American Medical Association.

The committee has secured from the records kept by the Crime Commission and by the office of the state's attorney a list of thirty-nine physicians who have testified as experts in Cook County. Six of these are from outside the state and can be accepted at once as fully qualified experts.

(a) Of the thirty-three local physicians, *fifteen* are members of the Chicago Neurological Society, the only local society devoted exclusively to work in nervous and mental diseases. Four of these fifteen have devoted themselves to practice and research in the field of diseases of the nervous system rather than to mental diseases. These four men graduated from first class medical schools in 1884, 1891, 1895 and 1899 respectively, and their special field of practice has necessarily brought them experience in the diagnosis and treatment of mental diseases. Each of them would unquestionably be accepted on the basis of this experience as an expert. The remaining eleven members of the Chicago Neurological Society who have testified have had special experience in psychiatry as well as in neurology which entitles them to consideration as experts; the dates of graduation ranged from 1879 to 1914.

Of the fifteen members of this society, three have had no rank in a college of medicine as teachers; eight have had the rank of professor, three of associate professor, and one of assistant professor. These are all indicative of acceptance by the medical profession of expert knowledge. Six of the fifteen belong to no other special neuropsychiatric society; five were members of the American Neurological Association, and six of the American Psychiatric Association; some belonged to other special societies. All have contributed articles to the literature of mental and nervous diseases.

(b) A group of *nine* physicians, mostly younger men, who are not members of the Chicago Neurological Society, are, or have been, members of the staffs of state or other hospitals for mental diseases.<sup>1</sup> Three of them are members of the American Psychiatric Association. As would be expected from the fact that employment in these hospitals is full time, most of these physicians have no teaching position in a medical college. One has

<sup>1</sup> In estimating the value of experience in a state hospital, it must be remembered that the superintendent of such a hospital is sometimes appointed for purely political reasons from the ranks of general physicians who have never had experience of special kind, though others have worked in the hospitals for more or less long periods. The duties of the superintendent are largely executive and do not indicate that there is special psychiatric knowledge. Hence it is important to realize that the character of the work and experience within a state hospital is in need of investigation before it is considered as qualification for an expert.

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the rank of associate professor; two (no longer employed in state hospitals) are associate and assistant (both below the rank of assistant professor), respectively, in a department of mental and nervous diseases in a medical college.

It is probable that most of those in this group would be considered qualified.

(c) The third group, also of *nine* physicians, contains the names of men who have not had special training or experience. None of them belong to any special society and none has a teaching position in a medical college. Two, graduates of first-class schools, are devoting themselves to practice in nervous diseases but have had no special training. One is a surgeon and another a general physician in good standing; both have stated that they have no special experience in mental diseases (both were appointed for a special examination by a judge). Two have specialized in industrial litigation and have been engaged in work that has been found unethical by the American Medical Association. These two and another man, who is in general practice, offer as their claim to special experience the fact that they have served on commissions appointed by the county judge in insanity hearings—hearings in which not more than a few minutes are devoted to each case and that only to hearing what other people have to say about the patients. Another physician has been allowed to testify in two cases, in spite of the fact that he has said he is not a psychiatrist and that his only experience with mental diseases was acquired as an orderly in the hospital of a penal institution in which he was himself serving a sentence.

### 8. *Stage of Proceedings for Raising the Question of Insanity.*

The question of insanity may be raised at various stages in the course of a trial after indictment.

1. *At the time of arraignment.* The law recognizes that an insane man may not have sufficient mind to plead guilty or not guilty to a charge against him. The issue may be raised through a petition filed by the attorney for the accused or on the initiative of the court. When the judge is satisfied that the question is properly raised he is required to impanel a jury to determine whether the defendant is in fact insane and unable to plead and prepare a defense. At such a hearing the question of guilt or innocence of the charge is not considered; if found insane, the accused is sent to a hospital for mental disease until he has fully recovered when he must return to the court to stand trial. This procedure is not used frequently in Illinois, the court often preferring to have the question of sanity at the time of the alleged offense determined as well as that of sanity at the time of the trial. We have been able to find four instances among the cases during the past five years.

2. *As a defense for the crime.* This is the most frequent use of the plea of insanity and the issue is raised during the trial of the issues involved in the alleged crime after a plea of not guilty has been entered. Since an insane man cannot plead, this is tantamount to a claim that the defendant was insane at the time of the crime but is now sane, at least for the purpose of pleading not guilty (a plea of guilty acknowledges responsibility and sanity). Under these circumstances the jury is required to determine not

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only whether the defendant committed the act charged in the indictment, but also whether he was then sane; if they find that he was then insane they must also determine whether he has since fully and entirely recovered his sanity. A verdict of insane at the time of the offense but sane at the time of the trial is equivalent to an acquittal; the defendant is released. If he was insane at the time of the offense and also at the time of the trial the verdict is not guilty and the defendant is sent to a hospital for mental diseases there to be detained until he recovers, when he will be released by the ordinary process for releasing such persons from such hospitals. A verdict of guilty carries with it the decision of the jury that the accused was sane at the time of the crime.

As suggested in the last paragraph, the defense attorneys do not always contend that their client, who is alleged to have been insane at the time of the offense, is sane at the time of the trial even though they may refrain from using his insanity as a means to avoid pleading to the indictment. The latter means a postponement of the trial on the issue of guilt until recovery of the defendant; if found insane at the time of the crime the defendant is relieved from all further court action.

3. *After a verdict of guilty.* A verdict of guilty implies sanity at the time of the crime. The plea may then be raised that the defendant has become insane since the verdict and before sentence has been pronounced or after sentence and before its execution. Again the law requires that a jury be impaneled to determine this point; at the hearing it must be shown not only that the convict is insane at the time of the hearing but also that the insanity has arisen since the verdict was rendered. If the defendant is found insane at this time he must be sent to a hospital to remain until he has recovered when he must be brought back to court for sentence or for execution of a sentence that had previously been pronounced.

We have found no instance of a plea of insanity after verdict and before sentence. In the cases of Loeb and Leopold who had pleaded guilty and had thereby acknowledged sanity and responsibility, a plea of mental deficiency of some vague kind that was not insanity was offered for the purpose of showing mitigation of the crime and securing mitigation of the sentence. Judges have, however, on their own initiative, often requested examination of persons who have pleaded guilty or have been found guilty by a jury before pronouncing sentence, particularly when probation has been in question. We have discovered forty-seven examples of such requests and there have undoubtedly been more.

Our list contains six examples of a plea of insanity after verdict and before execution of sentence; in all the plea was made to avoid a death penalty.

4. *During detention in the penitentiary.* A prisoner in a penal institution may also be alleged to have become insane. This is the only occasion in criminal procedure in Illinois on which a jury trial is not required by law. A convict in a penitentiary can be transferred to the state hospital for the criminal insane at Chester on the order of the prison physician. He must be returned to the penitentiary when he has recovered.

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### 9. *State Hospitals*

#### *Used for Committal.*

The state hospital for the criminal insane at Chester receives only men. All women found insane must, therefore, be sent to one of the other state hospitals. The statutes provide that men found not guilty, but insane, of six types of offense must be sent to Chester. These offenses are: murder, attempt to murder, rape, attempt to rape, highway robbery and arson. Presumably, men found to have committed other types of crime may at the discretion of the court be sent to other state hospitals.

## (II) EXTENT OF PSYCHOPATHIC CONDITIONS IN PERSONS TRIED

### 10. *Verdicts of Insanity in Cook County, 1923-1927.*

From the various sources detailed in the opening paragraph of this section of the report we have found the names of 165 persons charged with crime in Cook County during the years 1923 to 1927, inclusive, whose mental condition has been questioned in one way or another. The facts have been tabulated for convenience of reference. In some instances we have been able to learn nothing further than that a physician was consulted; in some, while the nature of the charge and the verdict are known, the stage in the proceedings at which this consultation took place is not known. In some cases we have been unable to learn even the nature of the alleged crime.

In Table 1 are shown the total number of trials for offenses of various kinds during the four years 1924 to 1927 with the frequency with which a verdict of insanity was returned. It should be noted that the year 1923 is not included in this table.

TABLE 1. CRIMINAL COURT FINDINGS OF INSANITY AMONG ALL DEFENDANTS IN THE YEARS 1924-1927

Convictions (Including Persons Placed on Probation)											
	Murder		Assault to Murder		Rape and Assault to Rape		Other Crimes		Total		No. of Defendants
	No. of Cases	Insane	No. of Cases	Insane	No. of Cases	Insane	No. of Cases	Insane	No. of Cases	Insane	
1924 ..	79	3	58	1	54	0	1,506	3	1,697	7	3,051
1925 ..	80	5	78	1	96	1	2,205	9	2,459	16	3,995
1926 ..	70	1	47	2	78	0	1,652	0	1,847	3	3,352
1927 ..	108	2	63	0	90	3	2,155	9	2,416	14	4,292
Total..	337	11	246	4	318	4	7,518	21	8,419	40	14,690 <sup>1</sup>
Percentages of Those Found Insane											
1924...	3.80		1.72		0.00		0.20		0.40		
1925...	6.25		1.28		1.00		0.41		0.65		
1926...	1.43		4.25		0.00		0.00		0.16		
1927...	1.85		0.00		3.33		0.41		0.58		
Total..	3.26		1.63		1.26		0.28		0.47		

<sup>1</sup> Of the 6,271 defendants found not guilty or discharged, three were found insane at the time of the crime (homicide) and sane at the trial. Adding these to the number of convictions, the percentage of those found insane in homicide cases is increased to 4.11 and of the total to 0.51. The numbers of those found insane in the table refers only to those who were sent to a hospital for mental diseases.

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It is of interest to note from the figures in this table that, contrary to general opinion, the question of insanity is not limited to capital offenses; twenty-one persons were found insane in the four years who were charged with crimes other than murder and rape. This number would undoubtedly be much increased, however, if psychiatric examinations were made as a routine. The findings of insanity at the prison shown in a subsequent section amply demonstrate this point.

### II. Procedural Stages, Verdicts, and Later Status, for Insanity Issues, 1923-1927.

Table 2 contains three parts. In the first part is shown the stage in the criminal proceedings at which the question of the mental state of the accused was raised; in part 2 are shown the verdicts reached in the 165 cases in which this question is known to have been raised; in part 3 the status of the persons found insane is shown as of date March 1, 1928.

TABLE 2. STAGES AND RESULTS OF INSANITY ISSUES, 1923-1927

Part 1		1923		1924		1925		1926		1927		Total		Grand Total
Stage of Hearing		I	S	I	S	I	S	I	S	I	S	I	S	
At time of pleading..		0	0	1	0	1	1	0	0	2	0	4	1	5
During trial .....		8	3	4	4	9	6	3	3	7	3	31	19	50
At time of crime and since recovered ....		0	0	2	0	0	0	0	0	1	2	3	2	5
After verdict and before sentence ...		0	0	0	2 <sup>2</sup>	0	0	0	0	0	0	0	2	2
After sentence and before execution ..		0	0	0	0	1	1	0	0	0	1	1	2	3
At request of judge, usually after plea or trial and before sentence .....		0	2	0	9	3	20	0	7	1	5	4	43	47
Cases in which the facts are not known <sup>1</sup>		4		12		9		12		16		53		53
Total with facts known		8	5	7	15	14	28	3	10	11	11	43	69	112
Total all cases.....		17		34		51		25		38				165
Part 2														
Verdicts in These Cases														
Insane .....		12		7		16		3		14				52
Guilty .....		3		16		26		15		15				75
Not guilty .....		2		6 <sup>3</sup>		5		4		1 <sup>3</sup>				18 <sup>3</sup>
Not known .....		0		5		4		3		8				20
Total .....		17		34		51		25		38				165
Part 3														
Present Status of Those Found Insane		C	O	C	O	C	O	C	O	C	O	C	O	
Still in hospital.....		4	0	5	1 <sup>4</sup>	8 <sup>5</sup>	1	3	0	7	3	27	5	32
Dead .....		1	1	0	1	2 <sup>6</sup>	0	0	0	0	0	3	2	5
Escaped .....		0	1	0	0	0	0	0	0	0	0	0	1	1
Discharged .....		1 <sup>7</sup>	0	0	0	1 <sup>8</sup>	1 <sup>9</sup>	0	0	0	0	2	1	3
Not known .....		1	3	0	0	0	3	0	0	4	0	5	6	11
Total .....		7	5	5	2	11	5	3	0	11	3	37	15	52

<sup>1</sup> In the majority of instances these were probably examinations made at the request of judges before sentence.

<sup>2</sup> The cases of Loeb and Leopold who pleaded guilty and therefore sane; mental

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In this Table 2, part 1, "I" and "S" represent, respectively, a finding of insanity and sanity; in part 3, "C" and "O" indicate, respectively, Chester and Other State Hospital.

*Comments.*—In forty-three cases in which a verdict of insanity was returned and in which the facts have been learned, there are only four in which the prosecution opposed the verdict. In thirty-nine instances (91 per cent) the experts employed by the prosecution concurred in the diagnosis of insanity and so testified at the hearing.<sup>1</sup>

defect was offered in mitigation of the crime.

<sup>3</sup> Three found not guilty because insane at the time of the crime though sane at the trial.

<sup>4</sup> Remanded back to the hospital after a hearing on a writ of habeas corpus.

<sup>5</sup> One man was remanded back to hospital twice after hearings on writs of habeas corpus issued by different judges.

<sup>6</sup> One man, found insane after being sentenced to death for a murder, was returned to the criminal court as sane on a writ of habeas corpus ad subjiciendum; he committed suicide in the county jail.

<sup>7</sup> This man, who had previously been in a state hospital as insane, was released on a writ of habeas corpus after five months in the Chester State Hospital; the hospital record at the time of discharge was "unimproved."

<sup>8</sup> This man was discharged by special order to the custody of the State Department of Institutions of Tennessee.

<sup>9</sup> This man was discharged from the Kankakee State Hospital after a residence of five months as "not insane."

<sup>1</sup> In the four exceptions, three (two of them women) defendants were found to have been insane at the time of the commission of a homicide and sane at the time of the trial. These were the cases of Fiori Garippo and Sylvia Vorak, in 1924, and of Catherine Gulbransen, in 1927; in each, experts for the prosecution expressed the opinion that the defendant was sane at the time of the offense.

The fourth exception was that of Russell Scott, August 23, 1925; he was found to have become insane after the pronouncement of a death sentence for the crime of murder, in spite of the testimony of experts for the state, and was sent to Chester. In 1926 he was pronounced sane by three psychiatric officers of the State Department of Public Welfare; on the basis of this evidence a writ of habeas corpus ad subjiciendum was secured by the state's attorney and Scott was returned to the Criminal Court of Cook County, May 25, 1926. By advice of counsel he refused to submit to an examination by a commission selected at the request of Judge Kavanaugh by the Chicago Medical Society and consisting of three psychiatrists who served without remuneration. At a hearing in June he was found sane by a jury. The Supreme Court, on a writ of error, ordered a new trial. Before this was held, Scott committed suicide in the jail.

In one case—Buddy Jones, charged with robbery—the defendant was found insane at the time of pleading, mainly because he had previously been in a hospital for the insane and was acting queerly. The judge had previously asked that the man be examined though the report had not been returned at the time of this hearing. The psychiatrist reported that, in his opinion, the man was feigning insanity. The previous commitment (in another state) was after an offense similar to that with which he was now charged and he had escaped from the hospital within a few days. He stated that he did not remember leaving the hospital but came to himself when some miles away without knowing how he came to be there and also discovering that he had ten dollars in his pocket, the source of which he did not know. After the hearing when he was pronounced insane he was overheard by the jailer boasting to another prisoner that he had succeeded in deceiving the judge. The finding of insanity was set aside and the man was found guilty and sentenced to Joliet. The mental health officer at the prison reports that this man appeared to be insane when he reached the prison and is still insane after the lapse of eighteen months. He would have been transferred to the Chester hospital if there had been room for him.

In the case of Ernest Holt, who had been found guilty of murder and sentenced to death, a plea of insanity arising after the sentence led to an examination by a commission appointed by the court; as the result of this it was reported that the man was probably epileptic, with the consequence that the sentence was commuted to life imprisonment.

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### 12. Subsequent History of Those Found Insane.

In the time available, we have been able to learn the present status (end of February, 1928) of forty-one of the persons found insane during the five-year period and sent to hospitals for mental diseases. These results are tabulated in part 3 of Table 2. Thirty-two (78 per cent) are still in the hospitals; five are dead; three have been discharged, and one has escaped.<sup>1</sup>

### 13. Same: Release by Writs of Habeas Corpus.

During the five years 1923 to 1927, eleven writs of habeas corpus have been issued for persons confined in state hospitals on mittimus orders from the Criminal Court. Of these, five concerned persons included in the list of fifty-two found insane during the same period. Among the eleven writs, eight were for persons sent from Cook County and three from other counties; ten of the hearings were before judges in the Criminal Court of Cook County and one in Bloomington, McLean County. The last was on April 25, 1924, and the man was remanded back to the Chester Hospital; a second writ was issued in Chicago, by Judge Williams, on July 17, 1924, and this man was then released (Asa E. Burger).

The outcome of the nine other hearings was: six were released as not insane; three were remanded back to the hospital. One of the men released (George Sanger) was immediately arrested by federal officers. The judges who issued the writs in Cook County were: J. J. Sullivan, two—both released; De Young, one—released; Williams, three—all released; Hurley, one—released; David, one—remanded back to Chester; McKinley, one—remanded back to Chester. We were unable to find the name of the judge in the tenth Cook County case (Anna Pecoulis), but the patient was remanded back to the Elgin State Hospital.

The four writs for persons included in our statistics were for Arthur Alexander, August 24, 1923, who was released by Judge Hurley as already recorded; Anna Pecoulis on April 17, 1925, and George D. Shaw for whom two writs were issued on August 27, and December 19, 1926, respectively. The two last named patients were remanded back to the hospitals.

In addition to these, the state's attorney secured the issuance of a writ of habeas corpus ad subjiciendum in the case of Russell Scott, as has already been detailed.

*Comment.*—Under the law of Illinois, release on a writ of habeas corpus—the decision that the person has recovered his sanity—is a matter to be decided by the judge who issues the writ. In every instance, in a criminal procedure, the law requires a jury to determine whether an accused

<sup>1</sup> Of the three who were discharged, one was released on the order of Judge Timothy D. Hurley of Chicago after a hearing on a writ of habeas corpus; he had previously been in a state hospital and was charged with robbery; the release took place five months after he was sent to Chester and the hospital record on his discharge was that his mental condition was "unimproved." One man, by special order, was deported to Tennessee in the care of the Commissioner of State Institutions of that state. The third man, charged with murder, was released after five months by the managing officer of the Kankakee State Hospital as "not insane."

The one record of escape was from the Elgin State Hospital. This man was charged with attacking a girl, aged 12 years, and escaped twice from the hospital; on the second occasion he was not apprehended.

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person is insane; a judge alone, even when advised by the hospital physicians that the man is still insane, can declare that he has recovered his sanity and can restore him to liberty.

14. *Subsequent Mental  
History of Persons  
Committed to Penal  
Institutions, 1923-1927.*

If mental disorder is an important factor in the causation of crime it would be expected that such disorders would appear in evident form in the penal institutions.

With this in view we have secured from the mental health officer at the Joliet penitentiary, an officer working under the direction of the state criminologist, a report of mental conditions among prisoners in that institution. Dr. Martin has cooperated fully and has summarized for us the results of examinations he has made since he became mental health officer in May, 1923. We are deeply indebted to him for the trouble he has taken in providing the data. These cover the period from May, 1923, to March, 1927.

Of the 2,565 consecutive admissions during that period, approximately 1,700 persons have been studied in detail. The selections of the prisoners for examination have been made on the basis of the need for reports to the Board of Pardons and Paroles; all convicts showing obvious signs of mental disturbance, either in the form of psychoses or of behavior difficulties, have also been studied; the routine omissions have been of prisoners who have long terms to serve and who will not come up for consideration by the Parole Board and can therefore wait until time is available. The statistics will therefore contain on the one hand the more obviously mentally disturbed and will also omit some of those who have been convicted of more serious crimes and who might be expected to show more serious mental disturbances.

Among the 1,700 persons examined, only 34, or 2 per cent, were found to have no demonstrable abnormality. This does not mean, however, that 98 per cent should be considered as insane or as not belonging in the penitentiary. Even though many of them are reported to be suffering from psychoses, the great majority are not considered as in need of transfer to a state hospital—in other words, though mental abnormality is recognized, this is regarded only as a question for consideration in deciding how to handle the man in the prison and as a factor to be considered in regard to the advisability of parole.

The facilities for securing histories of the prisoner before conviction are limited practically to the story told by the man himself. The prison does not avail itself of the facilities afforded by clearance of the Cook County cases through the social service exchange; it has no social service workers through whom such information could be secured from friends and acquaintances.

The accompanying Table 3 presents the findings in the 1,700 examinations made of prisoners admitted between May, 1923, and March, 1927.

As regards the results of intelligence tests (ratings of mental age) the findings with the convicts parallel closely those with the men examined for the army during the World War. The median age on leaving school is 14; on going to work is 15; on leaving home is from 16 to 17; all these compare with those of the average child. The median school grade reached

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is the seventh. These results indicate that intelligence deficiency is not an important factor in the cases of the men who reach the penitentiary when regarded as an average.

TABLE 3. MENTAL CONDITION OF CONVICTS, 1923-1927

The presence of psychoses:		
At the time of admission:		
Still present .....	45	
Now recovered .....	5	
Within a year of admission:		
Still present .....	15	
Now recovered .....	7	
More than one year after admission:		
Still present .....	12	
Now recovered .....	0	
	—	84
Grossly psychopathic persons (including schizophrenic and paranoid personalities):		
Without behavior problems in prison.....	79	
With behavior problems in prison.....	47	
With psychotic episodes.....	15	
Homosexual (before going to prison).....	23	
Convicted of sexual crimes.....	20	
Alcoholics with deterioration.....	35	
Drug addiction with psychosis.....	1	
Drug addiction without psychosis.....	15	
	—	235
Epilepsy:		
With psychoses .....	5	
Without psychoses .....	6	
	—	11
Paresis .....	9	
Cerebrospinal syphilis without psychosis.....	23	
	—	32
Psychoneuroses (chiefly anxiety states).....	13	13
	—	
Total .....		375

These figures indicate only the more striking types of abnormality and constitute 22 per cent of those examined.

Of the 72 prisoners said to be "now suffering" with psychoses, four have been transferred to the Chester State Hospital, one to the Kankakee State Hospital (he had served the minimum term of his sentence), nine are in observation cells awaiting vacancies in the Chester State Hospital which is much overcrowded, three have committed suicide and one died. The other 58 are not in need of commitment, but are doing some work in the prison and can be cared for there with special supervision by the mental health officer. It should be noted that 12 have recovered from psychoses in the prison.

The total number of definite psychoses is only 84, or 5 per cent of those examined, and of these 18 (1 per cent of those examined) were deemed in need of transfer to a hospital.<sup>1</sup>

<sup>1</sup> Among the men with psychoses in this list are several whose sanity had been in some way questioned during the proceeding against them in Chicago. Eight of these fall in the group of those who were considered insane when received at the prison. One (Walter Krauser) is now in the Chester hospital. Two (Frank Mallo and Buddy Jones) are in observation cells and would be transferred to Chester if there were room. The second of these two is the man who has been referred to as having been sent to Joliet after it

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15. *Same: Prisoners  
Admitted Prior  
to May, 1923.*

In addition to the examinations of prisoners who were admitted during the period this committee has had under survey, Dr. Martin supplied also some results of examinations made in the past four years of men who had been in the prison since before May, 1923. From more than 1,000 such examinations he has selected 126 examples of more severe types of mental abnormality which he tabulates as follows:

TABLE 4. MENTAL CONDITION OF CONVICTS, BEFORE 1923

The presence of psychoses:		
At the time of admission:		
Still present .....	2	
Now recovered .....	0	
Within a year of admission:		
Still present .....	0	
Now recovered .....	0	
More than a year after admission:		
Still present .....	30	
Now recovered .....	6	
	—	38
Grossly psychopathic persons:		
No behavior problems in prison .....	7	
With behavior problems in prison .....	40	
With temporary psychoses .....	10	
Homosexual psychopaths .....	6	
Convicted of sexual crimes .....	8	
Alcoholics with deterioration .....	2	
Drug addicts .....	0	
	—	73
Epilepsy with psychosis .....	1	
Epilepsy without psychosis .....	0	
	—	1
Paresis .....	3	
Cerebrospinal syphilis without psychosis .....	5	
	—	8
Psychoneuroses .....	6	
	—	6
Total .....		126

16. *Same: Psychoses  
at the Illinois  
State Reformatory  
at Pontiac, Ill.*

The mental health officer at Pontiac, Dr. David W. Philips, who also spends part of his time at the Illinois Southern Penitentiary, Menard, Ill., has furnished us with a list of all prisoners at Pontiac who have been found to be suffering from psychoses since 1923. Some of these prisoners had been

was reported that he was shamming; he has maintained an attitude of inaccessibility and odd behavior in the prison now for a year and a half. Five others (Harry Thomas, Sam Rosen, F. A. Potenza, John Meisner and Harold Croarkin—all convicted of murder) were found to have a psychosis at the time of admission but to be not in need of commitment to a hospital.

Among those who developed a psychosis within a year after admission to the prison are two whose sanity was questioned before being sent to Joliet. One of these is Richard Loeb who developed a psychosis following an attack of measles but has since recovered; the second is Orin Dobert or Doherty who was convicted of a crime against nature and is now awaiting transfer to Chester.

In the list of those showing gross psychopathic traits, though not insane, are Nathan Leopold—classified as a psychopathic person with severe behavior difficulties in prison, and Sam Vinci, an epileptic who has had transitory psychotic states that must be ascribed to the epilepsy.

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admitted long before 1923 and the list contains none of the names that appear in our list of persons charged with crime in Cook County in whose cases the question of insanity was raised.

The total number of psychoses during the five years was 66. Of these persons, nine were sent to the Chester State Hospital and nine to other state hospitals. Two are now under special observation in the hospital of the reformatory as there is no room for admission to Chester. The remaining 46 patients are working in the reformatory under the special supervision of the mental health officer or have been released from the institution; this last group includes 26 names.

The diagnoses of 22 psychoses observed during the year 1927 are:

TABLE 5. MENTAL CONDITION OF PRISONERS AT PONTIAC, 1927

	No. of Cases
Dementia præcox .....	13
Manic-depressive psychosis .....	1
Situational psychoses .....	2
Syphilis of the nervous system.....	3
Chronic epidemic encephalitis.....	2
Mental deficiency with psychosis.....	1
	22

Of these 22, three have been sent to Chester, one to Anna State Hospital and two are now in the hospital ward of the reformatory.

In response to specific inquiry concerning transfers to an institution for the feeble-minded, Dr. Philips wrote that the only cases he was able to find were three, all in the year 1926. Two were sent to Lincoln and one to Dixon.

Information concerning the social history of prisoners received from Cook County, constituting over one-half the receptions at Pontiac, is obtained from the Bureau of Social Service of Cook County, Department of Jails, from the court record and from a blank filled out by the state's attorney which is called "Information to the Parole Board." The cases are not cleared through the Social Service Exchange. No information is received from the laboratory of the Municipal Court in cases in which the prisoner has been examined there.

### (III) PROFESSIONAL OPINION AS TO IMPROVEMENTS IN LAW AND PROCEDURE

17. *Opinions of Judges:* A questionnaire was sent to the judges of the Superior, Circuit, and Municipal Courts in Chicago, and to the judges of the Circuit Courts throughout the state. The total number sent out was approximately 134. Twenty-four replies were received, three of them without answers to the questions. All questions were not answered in all twenty-one of those giving replies. The replies, small as is the number, are highly instructive; they illustrate extremely well the great divergence of understanding and opinion concerning the views held by psychiatrists; they convey also clearly the dissatisfaction of the judges with conditions as they now exist.

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The questions were grouped under five main headings and the answers may be analyzed under those heads. Following this will be given abstracts from some of the replies which seem to the committee of special significance.

### *Value of Expert Psychiatric Testimony.*

Six answers state that expert testimony as now given has value; seven assert the contrary; two say seldom, and three express doubt. The consensus of opinion, therefore, is opposed to present methods. The reasons given for this attitude are mainly that the testimony can be bought. One judge is inclined to blame, not the honesty of the witnesses, but the method whereby the alienists answer only questions propounded in such way as to favor the side for which they appear.

With regard to the possibility of improving methods, thirteen of eighteen replies are in the affirmative, four are doubtful, and one is negative. The last reply is from a judge who sees in the psychiatric viewpoint only an effort to evade punishment. The only concrete suggestions for improving methods are: (1) by asking the expert to make practical suggestions; (2) if the evidence is more honestly and intelligently given, and (3) if the law is changed.

### 18. *Same: Qualifications of Psychiatric Experts.*

Four returns failed to answer this question. The definite suggestions contained in the remaining seventeen are: (1) two years in psychology and two years in psychiatry; (2) five years practice in medicine and five years in psychiatry; (3) the qualifications should be passed on by a state board of competent examiners or by a local medical society. More indefinite suggestions are: knowledge and experience; general reputation and known standing; training in medicine and psychiatry; highest integrity and most expert knowledge in psychiatry; practical enough to know that the test of responsibility for crime should be "if the criminal was never suspected of being insane *before* the crime that should be the chief factor in judging whether he is insane after the crime"; that in addition to a knowledge of psychiatry the expert should at least "be possessed of some knowledge of the law." One judge suggests that the opinions would have more weight if the qualifications were explained to the jury in eighth grade English.

Since, under present methods of procedure, the trial judge is required to determine whether a witness is qualified to speak as an expert, it is especially instructive to find that the judges themselves have devoted so little consideration to the qualifications required. The only point on which there is substantial agreement seems to be that of integrity.

### 19. *Same: Selection of Psychiatric Experts.*

No uniformity of opinion as to the manner of selecting experts is expressed. The principal suggestions are: by the medical profession; by the state, county or some agency other than the parties interested; by the court (six replies) with agreement of counsel or without from a list furnished by a medical society, or from alienists available to the court; by a commission created by statute, as in Massachusetts. One judge advises that a permanent appointment should be made after an examination

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by a state board of qualified examiners. No reply was given on three returns.

20. *Same: Remuneration  
of Psychiatric Experts.*

No reply was given in four returns. The replies received all agree that payment should be made by the state or county, from public funds, so that the expert is beholden to neither side. The only stipulation is that the remuneration should be reasonable. One judge points out that a law is necessary to permit payment of experts by the state or county.

It is from the answers to the questions concerning the selection and remuneration of experts particularly that one learns of the strong feeling that experts are biased by the fact of employment and pay by a party to the suit. A desire to be relieved of this type of criticism is expressed fully as strongly by the replies received to a questionnaire sent to members of the Chicago Neurological Society.

21. *Same: Presentation  
of Expert Testimony.*

*When the expert has examined the accused.*—Only four replies were received to this question, the purpose of which was possibly not fully understood. One answer advises that the expert should testify under the usual rules of evidence with latitude to cover observations, tests, conclusions and opinions; one suggests only that the expert should testify to his examination regardless of whether favorable to the state or to the defendant; a third advises cross examination by both sides; the fourth expresses the opinion that the testimony has little value because the expert will testify in favor of the side employing him, apparently ignoring the fact that unless he would so testify the attorney for that side would not offer him as a witness.

22. *Same: The  
Hypothetical  
Question.*

In spite of the controversy to which this subject has given rise, only six replies were received. Of these, one advises that the hypothesis should include a history of the case and the results of examination by court experts, the defense being allowed an equal number of experts. Another was not in favor of testimony under such circumstances as the "questions and answers are usually arranged, decided upon and paid for in advance." One reply was to the effect that this method should not change the testimony in the least. One judge wrote at length to point out that the hypotheses used by the two sides are often so different that experts could hardly avoid coming to different opinions from the facts presented to them; he advocated the submission of one hypothesis to all experts. Another excellent suggestion was, "Let each side submit a question on its theory—giving the expert plenty of time to study it before taking the stand. Let each side cross examine." One judge answered by saying that he is not in favor of a law that permits a jury to find the accused insane at the time of the act and sane at the trial, this being the principal occasion for the use of the hypothetical question.

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23. *Same: Purpose  
of a Psychiatric  
Examination.*

Of twelve replies to the question whether the respondent agreed that the principal value of a mental examination lay in determining the treatment or punishment to be awarded to the accused if convicted, ten replied in the affirmative and two in the negative.

Six replies were made to the further question as to whether an examination had other values. Two of these were, "None as far as the administration of justice is concerned." One reply, by a judge who had replied "No" to the preceding part of the question, was that the order of values is: responsibility, treatment, punishment, and as a guide in future cases of similar offenses. The other answers recognized the mental examination as of value in determining measures of prophylaxis and education.

These replies, therefore, show substantial agreement that the main purpose of a psychiatric examination is to determine the disposition of the offender if found guilty of the offense charged against him.

24. *Same: Psychiatric  
Examination as an Aid to  
Determining Probation.*

Of sixteen replies, ten assented that a mental examination is an aid to deciding on probation; two said that it might be of value (one supplementing this by adding "in indicating the amount of supervision necessary"); two were, "No," though one judge said that he asked for such assistance frequently; one was, "Very little," and another, "I hardly think so."

Fourteen replies were made to the question whether mental examinations were requested in cases in which probation was under consideration. Seven were in the affirmative, one was, "Not often," and one, "Once or twice"; six were in the negative. Of the last, one said that if he could appeal to an unbiased body he would not hesitate.

Concerning the method of providing such assistance there was no close accord in nine answers, though most agreed that a change in the law is necessary. Three suggestions were made for a psychiatric clinic in connection with the court. One judge proposes that every child over the age of 14 should be examined at special institutions established by the state—this to be followed by such provision as is necessary; this, in the opinion of this judge, would eliminate crime. One judge "would never seek advice, as experts would excuse all crime by mental conditions and history of environment instead of recognizing the value of punishment;" another stated that provisions for such examinations should be made "not at all." One suggested that questions should be submitted to experts by both sides as in the presentation of a hypothetical question.

25. *Same: Some  
Instructive  
Comments.*

Judge Frederick A. Hill of the Circuit Court, Joliet, writes as follows:  
"I am not in favor of the law which permits a jury to say that a crime was committed but that the accused was insane and has since recovered and results in his discharge without punishment or restraint of any kind.

"My opinion may be of no value and perhaps is contrary to medical views, but I do not think this question of mental responsibility has much,

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if any, place in determining the question of guilt. And I am of the same opinion as to the question of insanity as it is usually presented. If a person is of such a mental capacity as to be irresponsible for one act it would seem to me to be likely to recur. Courts and juries should determine merely *whether the crime was committed by the accused*. A study of the reasons, mental and otherwise, is undoubtedly of value after conviction for the purpose of determining place of confinement, treatment, length of confinement, degree of restraint, advisability of parole, etc. If the court had power to fix punishment and place of confinement, evidence of this character might well be presented to the court after verdict and before sentence; but under the law, as it is at present in Illinois, most sentences are indeterminate and if we could have the right kind of a parole board, they would be best fitted to determine all those active questions with the aid of psychiatrists as well as the history of the person and other things.

"In capital cases when insanity is pleaded, the law might well provide that if the jury finds the defendant guilty but insane at the time of the commission of the act the death penalty shall not be inflicted but the defendant be sentenced for an indeterminate period to the hospital for the criminal insane, there to be kept until it is determined in some satisfactory way that there is complete recovery and assurance that he can thereafter control his impulses and conduct."

In spite of the doubt expressed by Judge Hill, this comment accords so closely with the views of psychiatrists and is expressed so lucidly that we have quoted it in full. Conversations with other judges have convinced us that Judge Hill is not alone among his colleagues on the bench who hold the same views, even though they have not been embodied in the answers to this questionnaire. This committee is inclined to regard this fact as evidence that the time is rapidly approaching when some agreement can be reached between the jurist and the psychiatrist on this important matter in the administration of justice and the prevention of crime.

Another instructive commentary is given by Judge A. E. Somers of the First Circuit. It emphasizes strikingly the difficulties with which the courts are confronted. If the facts are as quoted it would raise the question of the eminence of the psychiatrists employed. The judge writes:

"You will probably observe from the foregoing that I give but little weight to statements of psychiatrists as it has heretofore been practiced. Either the science has not yet been sufficiently developed or some radically different rules are applied by different individuals claiming to be psychiatrists.

"As an example: I had a case recently before me where a young man, 22 years of age, was charged with a serious crime. Each side called two eminent psychiatrists. The two called by the defendant stated that the mentality of the defendant was about that of an 8 years old child, while the two called by the prosecution stated that his mentality was above the normal man of 22 years. In fact, they stated that he was shrewd and alert and much above the average of one of his age.

"In such cases, what are we to do?"

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### 26. *Opinions of Physicians: Qualifications of Experts.*

A questionnaire was sent to all members of The Chicago Neurological Society, to which most physicians specializing in psychiatry in this district belong. It should be noted, however, that some of the members of this society specialize in nervous diseases and have taken no special training in the subject of psychiatry, though it is true that every neurologist will be called in consultation in cases of mental disease as well as of nervous disease. A few physicians and surgeons have become members of the society because they are interested in the subject in some way, though they may not consider themselves experts in this field. A few questionnaires were sent to physicians who are not members of the society, but who are known to be practicing in this field. The society exercises considerable care in the admission of members, requires the presentation of some work in the neuropsychiatric field as a condition for membership and scans closely the general reputation and standing of candidates.

The total number of blanks sent out was 57. The number of replies received was 36, 63.1 per cent of the total. Among the replies, five were returned unanswered, three with the statement that the respondent, though a member of the society, was not a psychiatrist, and two without explanation. The following analysis, therefore, is based on thirty-one replies.

Twenty-five of the respondents stated that they had had court experience ranging in number of cases from 1 to 300. Six had had no such experience. Analysis revealed no striking differences in the replies made by those with experience from those without experience; the two have consequently been combined.

### *Qualifications of Expert Psychiatrists.*

Thirty-one replies were received. The need for experience in a hospital for mental diseases, either public or private, was stressed by twenty-five (83 per cent); the length of this experience necessary was indefinite in the majority of answers, but the definite answers favored from 3 to 5 years. Nine answers advised special postgraduate instruction, usually in addition to the special hospital experience, and again the duration was usually indefinite; specific answers favored from 2 to 3 years. Scattering suggestions advised some legal training and experience in medical social work; one advised three months as a prison physician. The importance of general reputation and standing in the psychiatric field, as shown by membership in state and national psychiatric societies and by rank in teaching institutions, was emphasized by several.

The principal outcome of these answers is the recognition by physicians that special training and experience as well as reputation are important guides to the determination of fitness to serve as an expert in court. They also suggest that it is possible to lay down certain standards which can be used as a guide in determining that a man is qualified to speak with authority.

### 27. *Same: Selection of Experts.*

Twenty-eight answers were received to the question as to the desirable method of selecting experts, one of which was too indefinite to be of value. Sixteen of the remaining twenty-seven (59 per cent) advised the

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establishment of a special panel of men qualified to serve as experts, the most favored method of forming the list being through the advice of a special neuropsychiatric medical society or by a local general medical society (The Chicago Neurological Society or the Chicago Medical Society in Cook County). In some instances it was proposed that the court should select experts from this list; in others that the selection should be made by the medical society, and in still others that the men on the list should serve in rotation as occasion arose. Five advised that the court should select the experts without specifying that this selection should be made from a special accredited list. Five recommendations were made for the formation of a commission when the need for expert assistance arises; in three instances this was to be chosen by the attorneys for the prosecution and the defense with a third selected by the court; the other two advised selection of one expert by each of the attorneys, these two to agree on a third or the third to be named by a medical society.

Though the methods recommended vary, it is striking that all recommendations tend to a selection that will render the findings nonpartisan or a matter of agreement between the two sides and thus avoid the criticism that medical testimony is purchased or biased. Several physicians comment bitterly on the discredit placed, whether justly or unjustly, on the profession by present methods and there can be no question from these responses that the psychiatrists would welcome some change in procedure that would remove the stigma.

28. *Same: Presentation  
of Expert Testimony.*

a. *After examination of the accused.—*

Seven returns gave no answer to this question and others showed a failure to grasp the meaning intended by the committee. Ten answers advise that the report should be made in writing. Two express the wish that it could be made possible to avoid cross examination which, the respondents consider, tends to confuse the issue. One asks that yes and no answers be dispensed with and two object to the specific question of sane or insane as being unmedical. One advises that the expert should hear all the testimony, in addition to his examination, before making a report. Two recommend only that the report should be full and unhampered by questions or legal objections. One striking answer is that the report should be presented to the judge and not to a jury, though subject to cross examination, and adds, "It is ridiculous to debate a scientific problem before a jury, which should be required to determine only whether the offense was committed."

b. *When no examination has been possible.—*No answer is made to this question in six returns. Seven answers are to the effect that no opinion is justified on the basis of a hypothetical question. Eight advise a written report after hearing all the evidence. Another recommends, as in the first part of this question, that the report should be made to a judge and not to a jury. Three advise that a hypothesis should be constructed after consultation between the attorneys and experts for both sides, and one advises that it should be propounded by the court.

The chief outcome of the answers to this question is the expression of opinion that the expert should be allowed to make a full statement of his

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findings and opinion in a manner to which he is accustomed in his ordinary practice of medicine.

29. *Same: Purpose of a Psychiatric Examination.*

All returns contained an answer to the categorical question whether the principal value of the psychiatric examination is for the purpose of deciding on the treatment of the accused if he is found to have committed the offense with which he is charged. Of the thirty-one replies, twenty-four (77.4 per cent) are in the affirmative; one is "not necessarily," and six are in the negative. Of the last it may be said that some respondents have misunderstood the question, thinking that the term "treatment" does not cover segregation from society and possibly punishment; two point out that the good of the community is paramount; one suggests that the mental examination is of value in determining the need for permanent segregation; another places the determination of treatment as secondary to "interpreting the personality" and is tantamount to an affirmative answer; of the remaining two, one places "determination of responsibility" before treatment and the other advises leaving the question of treatment to the jury, giving no other value for a psychiatric examination. Two of those who replied "Yes" to the question added a proviso that treatment includes punishment.

From this analysis it may be said that at least twenty-eight of the thirty-one (93.5 per cent) answers regard the prime purpose of a psychiatric examination as the determination of the treatment to be applied, or the disposition to be made of the accused if convicted.

With regard to other values of mental examinations, none was given in eleven replies, fourteen mentioned research and educational possibilities, and two gave the value of assisting in determining legal responsibility.

30. *Same: Facilities Needed for an Examination to Help in Deciding Whether Probation Should Be Granted.*

Replies were received in all blanks that had been filled out. In all, the foundation is given as a thorough examination which in many is specified as including physical, mental, psychologic and laboratory studies. The purpose of the question, however, was to discover to what extent special facilities, outside of the examination of the man himself, are required. Seventeen answers stress the need for a good history; thirteen ask for social service aid, and thirteen recommend institutional observation. One advises at least one week in a psychopathic hospital; one advises "for most cases 3 months" in such a hospital; one reply is to the effect that the insane should not be placed on probation and the question evidently has not been understood.

31. *Same: Temporary Insanity.*

The answers indicate a substantial agreement that temporary insanity does not exist in the absence of some more prolonged disability. Three returns contained the categorical negative; two stated "if momentary, no," and one said "practically no." Twenty-five answers were "Yes."

Under the conditions mentioned in which temporary insanity may occur are:

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Intoxications, especially alcohol.....	16
Short manic-depressive attacks.....	9
Epileptic conditions .....	17
With psychopathic personality.....	6
With post-traumatic constitution.....	2

Mention is made also of cerebrospinal syphilis (non-paretic), exophthalmic goiter, hysteria and migraine. One reply speaks of violent emotional outbreaks as coming under this head; another says, "Violent periodic temper outbreaks should not be claimed as excuse (for crime) unless the claimer is willing to recognize the probability of future similar outbreaks and submit to institutional care for life;" another states that temporary insanity does not include such hypothetical states as insane for a few hours or days preceding, during, and following the commission of a specific act.

None of the conditions mentioned as a basis for shortlived attacks of mental aberration is a merely temporary state, except in the instance of intoxications, either alcoholic or due to some infection. In all others there will have been evidences in the history of previous behavior or in the results of a physical examination that will lie outside the actual outbreak at the time of the crime.

32. *Same:* In addition to comments on the unsatisfactory conditions that now obtain in regard to psychiatric work with the courts and a desire to see them remedied, a few other suggestions are made which, if nothing more, indicate the desire of physicians to do better work. Two mention the need of observation of an accused man in a special institution in which the personnel has been trained for psychiatric work. Two deplore the presentation of medical testimony to a jury and advise that the jury should decide only whether the accused is guilty or innocent; they also advise that the disposition of the offender should be determined by the court after consultation with experts. Another significant remark in one reply is that "abolition of capital punishment would do away with all difficulties."

33. *Massachusetts Practice.* Impressed by the "almost inconceivably futile, cruel and wasteful" procedure employed in ascertaining the mental responsibility of persons accused of crime, Dr. L. Vernon Briggs, of Boston, in 1920 drafted a law providing for routine examination by an impartial commission or board of persons accused of serious crimes in a book entitled "The Manner of Man that Kills." This bill was introduced into the legislature and after much rough sledding became a law in 1921. The law has been twice amended in 1923 and 1925, and as thus amended reads as follows:

"Whenever a person is indicted by a grand jury for a capital offense or whenever a person, who is known to have been indicted for any other offense more than once or to have been previously convicted of a felony, is indicted by a grand jury or bound over for trial in the superior court, the clerk of the court in which the indictment is returned, or the clerk of the district court or the trial justice, as the case may be, shall give notice to the department of mental diseases, and the department shall cause such person to be examined with a view to determine his mental condition and the existence of any mental disease or defect which would affect his criminal responsibility. The department shall file a report of

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its investigation with the clerk of the court in which the trial is to be held, and the report shall be accessible to the court, the district attorney, and to the attorney for the accused."

An important difficulty that was encountered in the administration of the law was found to lie in the failure of the clerks to report cases to the department of mental diseases. In 1925, a clause was inserted making neglect of the clerk to report cases punishable by a fine of not more than \$50. This did not remedy the defect and in 1927 the law was again amended to place the responsibility of reporting cases on the probation officers, as the Probation Department has centralized criminal records of court cases in Massachusetts.

In commenting on this law and its operation before the Section on Economic and Social Problems of the American Association for the Advancement of Science at the meeting in Philadelphia, December 29, 1926 (Yale Law Journal, March, 1927), Dr. Sheldon Glueck pointed out that the act eliminates objectionable features present in all other state legislation on the subject. The law requires *routine examination of all offenders* of this type; the examinations are made by a *neutral, unbiased agency* (the Department of Mental Diseases of Massachusetts has its nearest counterpart in Illinois in the State Department of Public Welfare), and the examinations are made "*before trial and before it is decided whether or not to resort to the frequently abused 'defense of insanity.'*"

### *Operation of the Law.*

At a Conference on Reduction of Crime called by the National Crime Commission in Washington, November 2 and 3, 1927, Dr. Winfred Overholser, director of the Division for the Examination of Prisoners, Massachusetts Department of Mental Diseases, presented the following facts concerning the practical operation of the law (Chapter 415, Acts of 1921, as amended, Chapter 331, Acts of 1923, and Chapter 169, Acts of 1925).

From 1921 to October 15, 1927, 505 persons accused of felony have been reported. Of these, 123 have not been examined.<sup>1</sup>

<sup>1</sup> Twenty-five of these non-examinations of persons have been reported during the year 1927 who were found not to come within the provisions of the act because they had either no previous record or were convicted of a misdemeanor only or were indicted for homicide of less than capital grade. "The most significant reason for failure to examine was inability to locate because the accused had been released on bail, a reason which obtained in nearly one-half the cases missed. Another reason has been the imposition of sentence before examination could be made. This reason existed in about one-fifth of the cases not seen.

"An obstacle which has been encountered in only the rarest instances has been the opposition of the accused or his counsel to the examination. The cooperation of counsel, in fact, has been one of the outstanding features of the operation of the law, despite the gloomy predictions of those who claimed that the constitutional rights of the accused were being infringed and that the prisoner would not submit to the examination. In some instances, indeed, in which the prisoner was disinclined to interview the psychiatrists, his lawyer has instructed him to submit to the examination. It is significant, too, to note that the refusals occurred in the earlier days of the Act, and that with increase of familiarity with the provisions and purposes of the statute has come an increasing degree of cooperation on the part of defense attorneys. The fact that such cooperation exists goes to prove that the law is being fairly administered, and that its operation is certainly not grossly inimical to the defendant."

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Of the 382 persons examined there were:

201 indictments for first degree murder

6 indictments for second degree murder or manslaughter

(these examinations were made before it was decided that these offenses do not come within the provisions of the law)

175 with 240 indictments, including:

22 sex offenses

73 larceny

70 burglary

29 robbery

14 assault to rob or kill

32 other indictments.

Against the 123 persons not examined, there were 131 indictments divided as follows:

16 homicides

8 sex offenses

43 larceny

32 burglary

10 robbery

6 assault to rob or kill

16 other offenses.

The mental examinations resulted in reports concerning the 382 persons examined as follows:

31 insane

34 mentally deficient or "defective delinquent"

12 psychopathic personality

8 borderline conditions in which the persons were recommended for observation in a hospital.

Total 85, or 22 per cent

The remainder were reported as having no demonstrable mental abnormality.

Thirty of the 31 reported as insane were sent to a state hospital. One, in spite of the report, was found sane and was sentenced to prison for manslaughter. Within a few months he was found insane at the prison and was transferred to the hospital for the criminal insane. In most cases the commitment was made without the formality of a trial, the criminal charge being "filed." In others the prosecutor preferred to dispose of the case finally and a pro forma hearing was held at which an instructed verdict of insane was rendered in less than an hour.

Massachusetts, like New York, has provided special institutions for the care of defective delinquents. In spite of this, only eight of those found by the commission to belong in this group were sent to these institutions. The others were dealt with in traditional manner. Some were sent to the House of Correction; others were given terms varying from 5 to 7 years

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to from 20 to 26 years in the state prison. There is no special provision for psychopathic personalities and these were consequently dealt with in the penal institutions. It is worthy of note, however, that the opinions expressed by the examiners, if heeded, would have placed most of these persons under restraint for an indeterminate period and probably for life.

The total number of persons who refused examination on constitutional grounds was eight.

It will be noted that approximately 8 per cent of the persons examined were found to be insane. The data are not comparable with the figures we have collected for Illinois. Yet it may be pointed out that the finding of insanity, by the expensive methods used in Illinois, in persons indicted for murder, was made in only 4.11 per cent. Among the prisoners sent to Joliet during nearly four years, 50 were recognized as being insane at the time of their admission to the prison. The conclusion seems justified, therefore, that the procedure in Illinois is far less efficient. That it is also far more costly, to say nothing of the waste of time and of the unnecessary subjection of some insane persons to a prolonged court battle, is shown by the fact that the fees for the examination of the 382 persons in Massachusetts under the operation of this Act have totaled \$3,056.

The results of the operation of the law indicate further that there is need, in addition to the examination, of provisions in the criminal law for the disposition of those found to be suffering from mental disability. In Illinois, where the majority of sentences are more nearly indeterminate, that is to say, the maximum sentence is life imprisonment, there would be fewer difficulties on this score, though some modifications would still be advisable. A finding of psychopathic personality or defective delinquency means that the person is, for pathologic reasons, incapable of behaving in a socially acceptable manner; he is the essential recidivist. Regardless of the gravity or triviality of the charge against him at the moment he needs permanent segregation whether in prison or in some special institution.

34. *The New California Law.* The state of California has amended its criminal law as concerns the pleading of insanity in a somewhat drastic manner. This law is now before the Supreme Court. If found constitutional the law will have far-reaching effects. The important changes in the penal code are:

Chapter 677. Section 1016 as amended. There are five kinds of pleas to an indictment or information:

1. Guilty
2. Not guilty
3. A former judgment of conviction or acquittal of the offense charged
4. Once in jeopardy
5. Not guilty by reason of insanity.

Section 1026—a new section. When a defendant pleads not guilty by reason of insanity, and also joins with it another plea or pleas, he shall first be tried as if he had entered such plea or pleas only, and in such trial he shall be conclusively pronounced to have been sane at the time the offense is alleged to have been committed. If the jury shall find the defendant guilty, or if the defendant pleads only not guilty by

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reason of insanity, then the question whether the defendant was sane or insane at the time the offense was committed shall be promptly tried, either before the same jury or before a new jury, in the discretion of the court. In such trial the jury shall return a verdict that the defendant was sane at the time the offense was committed or that he was insane at the time the offense was committed. If the verdict or finding be that the defendant was sane at the time the offense was committed, the court shall sentence the defendant as provided by law. If the verdict or finding be that the defendant was insane at the time the offense was committed, the court, unless it shall appear to the court that the defendant has fully recovered his sanity, shall direct that the defendant be confined in the state hospital for the criminal insane, or if there be no such state hospital, then that he be confined in some other state hospital for the insane; if, however, it shall appear to the court that the defendant has fully recovered his sanity, such defendant shall be remanded to the custody of the sheriff until his sanity shall have been finally determined in the manner prescribed by law. A defendant committed to a state hospital shall not be released from confinement unless and until the court which committed him, or the inferior court of the county in which he is confined, shall, after notice and hearing, find and determine that his sanity has been restored. In the event such hearing is held in the county from which the defendant was committed, notice as ordered by the court shall be given to the district attorney of said county. If such hearing is held in the county where the defendant is confined, notice as ordered by the court shall be given to the district attorney of said county and also to the district attorney of the county from which said defendant was committed. Nothing in this section contained shall prevent the transfer of such person from one state hospital to any other state hospital by proper authority."

The chief purpose of this law is to separate the question of sanity from that of guilt and it provides that the latter issue will be tried first. It does not, however, remove the decision on the sanity of the accused from a jury, a procedure that, even if desirable, is not constitutionally possible. The law also makes important provisions concerning the release of persons, who have been found insane at the time of the commission of the offense, from the hospital. The relation of this to a hearing on a writ of habeas corpus is not discussed. It should be noted also that the procedure differs from that in Illinois in the fact that the sentence and penalty are fixed by the judge. In Illinois, in capital offenses, the punishment is fixed by the jury.

35. *Canadian Practice.* An example of the closest cooperation between the courts and the Provincial hospitals for the insane is afforded by the practice for the determination of insanity in criminal cases in the Province of Manitoba, Canada. Information concerning this procedure was secured through a personal interview with Dr. Alvin T. Mathers, Director of the Psychopathic Hospital at Winnipeg. Dr. Mathers very kindly, in response to a letter of inquiry, came to Chicago to give this information. It is to him very largely that the present successful cooperation in Manitoba is due. Dr. Mathers besides being the director of the Psychopathic Hospital is Provincial Psychiatrist and has one advantage in addition to his official position which he has held for many years; he

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is also a justice of the peace and can administer oaths and compel the attendance of witnesses.

In regard to murder cases, only ten persons charged with murder have been found insane in the past ten years. If the sanity of a defendant is questioned before or during trial, the defense and prosecution alike use the services of the psychopathic hospital. Dr. Mathers is notified and may, with the consent of the court which is never refused, appoint two physicians to serve with him as a commission; the two latter are paid a fixed fee by the court. Dr. Mathers serves in his official capacity without extra fee. The accused is kept under observation as long as may be necessary. The report of the physicians is made in writing to the court and to the attorneys for both sides. The commissioners testify either for the Crown or for the defense, according to the conclusions they reach. No other expert has been called in the past ten years. The courts are rigid concerning the qualifications of experts; at least three years of post graduate psychiatric experience is required and preference is given to men who have had jail experience.

The sentence in practically all cases of murder when the defendant is found guilty and sane is death. The evidence, however, in all such cases is reviewed by the Department of Justice of the Dominion Government before execution. At this time an examination for sanity may be requested and carried out in the Psychopathic Hospital.

The Provincial Court will at times go even to great expense to bring out facts that might tend to show the defendant insane. Dr. Mathers cited one instance when the Court paid the expense necessary to bring certain witnesses to Winnipeg from California.

In addition to capital offenses, numerous examinations are made of persons charged with lesser offenses when the question of mental capacity is raised. At least one such person is examined at the hospital each week, sent in from the magistrate or police courts. As evidence that the insane are sorted out at the time of the trial, Dr. Mathers stated that only two prisoners have been sent from the penitentiary to the psychopathic hospital in the past ten years (there is no special hospital for the criminal insane).

#### (IV) PSYCHIATRIC ASSISTANCE IN THE COURTS OF COOK COUNTY

36. *The Juvenile Court: History and Organization.* The work of the Juvenile Court has been studied by another committee of the Illinois Association for Criminal Justice and will be considered here only in relation to its medical aspects. This committee has adhered rigidly to the specific subject allotted to it for survey—that of the medical aspects of the administration of justice—and has refrained from discussing the causes and prevention of crime; no scheme of administration, however, can be satisfactory that ignores prophylaxis. An ounce of prevention is worth a pound of cure. Though this is generally conceded, it is striking that millions of dollars are spent annually to deal with the consequences of crime and practically nothing to prevent it. It is in this field, particularly, that medical and psychiatric science can be of the greatest aid to the courts.

Without entering into a discussion of the causes of crime, it can be said

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that the facts presented in the reports of the various committees appointed by this association establish clearly that a large proportion of habitual criminals enter a career of crime at a very early age. Judge Trude, in the Twelfth, Thirteenth, and Fourteenth Annual Reports of the Municipal Court for the years 1917 to 1920, inclusive, p. 114, stated that of 6,000 cases in the Boys' Court in seven and one-half months, "at least fifteen per cent of those charged with misdemeanors are repeaters." From this group he selected for study at the psychopathic laboratory, "guided mainly by the file records," 257 boys of whom 111 (43 per cent) admitted records in the Juvenile Court.

These facts alone are sufficient to indicate the importance of the work of the Juvenile Court. Many of the "repeaters" present mental characteristics, even at Juvenile Court age, which are capable of recognition with proper psychiatric study. Recognition is the first step toward the provision of measures designed rationally to: (1) protect society from delinquent activities that are liable to become increasingly serious with advancing age of the offender, and (2) remedy, if that is possible, the deficiencies discovered.

It is not intended to suggest that every delinquent child, even those appearing before the Juvenile Court, is a potential habitual criminal; such a statement would be absurd. Every child must learn socially accepted behavior; all social restrictions have been evolved to regulate and control conduct that is founded on innate or natural and normal animal desires; every child, if untrained, would be delinquent in relation to social rules.

The prime purpose of the statements is to emphasize the fact that some children are defective in some qualities that are needed for learning how to behave in a social manner and may be described as born criminals; others fail to learn because of faults in their training. If the judge of the Juvenile Court is to meet adequately the demands made of him, it is obviously essential that he be provided with every known facility for learning the nature of the offender as well as of the offense. There is nothing in the nature of the latter that will indicate the ability of the offender to learn better behavior on probation or in special schools or the liability that he will commit further delinquencies; this can be learned only from a study of the offender himself and of all the circumstances surrounding him. This knowledge is fundamental for the protection of society and is in no sense sentimental.

The needs for this service in the Juvenile Court were recognized in 1909 by a group of private citizens who, under the leadership of Mrs. W. T. Dummer, provided the means for the establishment of a demonstration clinic in connection with the Juvenile Court and maintained it for five years. The clinic was organized under the direction of Dr. William Healy who had the assistance of Dr. Augusta Bronner as psychologist, and of a social worker and a stenographer. The clinic demonstrated its value and in 1914 was taken over by Cook County, under the auspices of which it continued with the same staff until 1917. Drs. Healy and Bronner then resigned to take up similar work at Judge Baker Foundation in Boston. Dr. Herman M. Adler then assumed charge of the clinic for six months, when he was appointed Criminologist to the State Department of Public Welfare.

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37. *Same: The  
Institute for  
Juvenile Research.*

The work of the clinic was continued with some difficulty during the war, subsequent to which Dr. Adler organized a state institute, known first as the "Juvenile Psychopathic Institute"; this title was changed in 1920 to the "Institute for Juvenile Research." This institute is maintained by the state and though its headquarters are in Chicago it has connections with similar work throughout the state. Dr. Adler has also supervision of mental health work in the state penal, correctional and educational institutions. The Institute for Juvenile Research is therefore in no sense a Cook County Institution.

Under these circumstances, a cooperative arrangement has been entered into between the State Institute for Juvenile Research and the Juvenile Courts of various counties. Under this arrangement, the county provides quarters and some routine assistants while the Institute furnishes expert psychiatric assistance and advice. In Chicago, the county provides a psychologist and two stenographers; the institute provides a psychiatrist who spends Monday, Wednesday and Friday afternoons of each week at the Juvenile Detention Home, a psychologist and two psychiatric social workers. General medical examinations of an extremely superficial character are made by a county physician in the cases of children admitted to the Juvenile Detention Home; these constitute only a proportion of the children brought before the Juvenile Court.

The Institute for Juvenile Research does not undertake the routine examination of children brought before the court; it is interested largely in the court cases as material for study and research. Cases are referred to the clinic at the Detention Home from four sources: (1) the Judge of the Juvenile Court; (2) police officers; (3) probation officers, and (4) social agencies referring cases to the Juvenile Court. At the present time approximately 500 children are examined annually at the clinic in the Detention Home. Other children examined at the request of the court are seen at the headquarters of the Institute.

38. *Same: Juvenile  
Examinations,  
1924, Classified.*

In estimating the proportion of delinquent children brought before the Juvenile Court who are submitted to examination by the Institute for Juvenile Research, the accompanying table, compiled from a report made by the Institute to the Judge of the Juvenile Court on May 24, 1926, presents the number of examinations made during a period of six months. These refer only to children who were held in the Detention Home. These are compared with the annual report of the Juvenile Court. The latter, however, covers a period of one year and it has not been possible to separate the cases belonging to the six months reported by the Institute; consequently, the comparison is probably not entirely accurate.

In order to make the figures more comparable the number of examinations at the Institute have been multiplied by two, except when this would make the total larger than the total number of cases in the court. Boys and girls are given separately.

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TABLE 6. CHILDREN EXAMINED AT JUVENILE RESEARCH INSTITUTE, 1924

Delinquency Charge	Total No. of Children in court in year 1924	Twice the total number of those examined in six months of 1924	Percentage
<i>Boys</i>			
Sodomy .....	2	2	100
Manslaughter .....	3	3	100
Larceny (mail boxes) .....	4	4	100
Disorderly conduct .....	9	9	100
Homicide .....	1	1	100
Rape .....	12	8	67
Obtaining money under false pretenses ..	8	4	50
Immorality .....	19	4	22
Incorrigibility .....	424	86	20
Robbery .....	68	12	17
Forgery .....	17	2	12
Larceny (unclassified) .....	536	108	20
Larceny of auto .....	373	36	10
Assault .....	389	34	9
Malicious mischief .....	75	6	8
Larceny from railways cars .....	55	4	7
Burglary .....	58	4	7
Arson .....	950	84	9
Drunkenness .....	522	18	3
Attempted suicide .....	3	0	0
Carrying concealed weapons .....	1	0	0
Receiving stolen property .....	1	0	0
Larceny of auto tires .....	22	0	0
Feebleminded cases .....	8	0	0
	562	18	3
	82	82	100
	2,161	319	15
<i>Girls</i>			
Robbery .....	5	5	100
Disorderly conduct .....	1	1	100
Carrying concealed weapons .....	1	1	100
Larceny (unclassified) .....	40	30	75
Immorality .....	176	74	42
Incorrigibility .....	379	30	8
	602	141	23

Of twenty-six other girls charged with drunkenness, malicious mischief, obtaining money under false pretenses, forgery, arson, larceny of autos, murder and assault—none were examined.

Study of the accompanying table shows that examinations are made: (1) of all boys charged with crimes of violence and sex; (2) of one of five boys charged with immorality, incorrigibility, robbery, or obtaining money under false pretenses; (3) of one of ten boys charged with larceny, assault, or malicious mischief; (4) of only a few of those boys charged with other offenses such as burglary, drunkenness, receiving stolen property, etc.; (5) of all girls charged with robbery, disorderly conduct, or carrying concealed weapons; (6) of eight of ten girls charged with larceny; (7) of four of ten girls charged with immorality, and (8) of one of ten girls charged with incorrigibility.

Taken together, these figures indicate that somewhere between 15 and 20 per cent of all children charged with delinquency are examined at the

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clinic. The examinations are a model of thoroughness and close cooperation is maintained with the probation department. The general procedures followed in all cases may be outlined as an indication of the type of work such a clinic performs.

39. *Same:* (1) Social investigation by a probation officer. The  
*General* officer (not a police officer) investigates the family  
*Procedure.* situation and the neighborhood life of the child. He uses  
for this purpose an outline prepared by the clinic which  
has proved so valuable that it has been adopted for general use by the probation officers of the Juvenile Court for all cases, whether referred to the clinic for study or not.

(2) Investigation by a psychiatric social worker. The worker supplements the report of the probation officer by securing a detailed history from parents or guardians of the child to obtain a consecutive account of the child's development and family relationships from birth to the present time. Histories were obtained in 80 per cent of children referred in the year 1927. "In this way many irregularities in physical and mental development, parental care and social influences were uncovered." (Annual Report of the Institute for Juvenile Research, Dec. 1, 1926 to Nov. 30, 1927).

The social worker also interviews workers from other agencies that have had contact with the child or its family (discovered by clearing the case through the Social Service Exchange), teachers in school, private physicians or other medical agencies that have had contact with the child and with officers, teachers and recreational workers at the Detention Home. She also consults with workers in the Juvenile Court.

(3) Psychologic Examination. All children are given general tests for intelligence. In 30 per cent of the cases this is supplemented by performance tests, in 20 per cent by tests for educability, and in a small group (1 per cent) by vocational tests.

(4) Medical Examination. This is a search for physical defects or abnormalities "which so frequently produce behavior problems in children. If glandular disorders or serious abnormalities are found which require even more technical examination, the child is referred to a strictly medical clinic."

(5) Psychiatric Examination. The child is interviewed by the psychiatrist with the object of securing his story of his difficulties, his emotional reactions and his attitude toward himself, toward others and toward his own difficulties.

(6) Staff Conference. The results of all previous investigations are discussed at a conference of the staff of the institute, with the probation officer and other workers interested in the case. As a result of this conference recommendations are made.

40. *Same: Social* When a child is placed by the court on pro-  
*Supervision* bation the plan of supervision is discussed with the  
*and Treatment.* probation officer, who may also consult with the  
social service department of the Institute from time  
to time as problems develop. This consultant service is still in process of  
development and modifications are being made to meet the needs of the  
court officer in his study and supervision of the child. In addition, a limited

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number of children are placed directly under the supervision of workers of the Institute. These are selected because of the complexity of the problems involved or because of their importance in research. In the year 1927 twenty children were handled in this way.

*Feeble-minded Cases.* When children are brought before the Juvenile Court on a petition alleging feeble-mindedness, the judge appoints a commission consisting of a physician and a psychologist who at this time are members of the Juvenile Court Branch Staff of the Institute. This commission examines the children and reports to the court with advice as to treatment and a program of training.

Throughout the history of the clinic the emphasis has been on the detailed and exhaustive study of a few children rather than making an attempt to see a large number of cases. It is believed that this method is the best means toward contributing to a final understanding of delinquency and crime. Since it will always be impossible to meet all the demands for assistance, thoroughness of study and validity of result must characterize the further development of the clinic.

In the same report from which the last paragraph is quoted the Institute asks for additional workers, psychiatric social workers and a psychologist and two additional probation officers. The present quarters at the Detention Home are said to be inadequate.

41. *Same: General  
Medical  
Examination  
of Juveniles.*

It is generally conceded that physical defects and abnormalities are important factors in determining the behavior of children in many cases. Superficial examinations are made of all children admitted to the Juvenile Detention Home and also of a portion of those brought before the Juvenile Court who are not admitted to the Home. These examinations are made by a county physician who gives the mornings of each day to this work.

This committee has made no direct study of this problem and the statements made here are quoted from a report of an investigation, made at the request of the Judge of the Juvenile Court by Mr. John E. Ransom, which was placed at the disposal of the committee by the judge.

Many children who are admitted to the Detention Home are not brought before the court and many children brought before the court are not admitted to the Home. The following figures for the year 1924 indicate the approximate number of such children.

Alleged delinquents admitted to the Juvenile Detention Home.....	6,081
Alleged delinquents in Juvenile Court.....	2,707
Alleged dependents admitted to the Juvenile Detention Home.....	1,202
Alleged dependents in Juvenile court.....	2,310
Total in Detention Home in 1924.....	7,283
Total in Juvenile Court.....	5,017

The number of children that figure in both groups—and hence the total number of children concerned—was not ascertained.

The purposes which may be served by the medical examination of children admitted to the Juvenile Detention Home are three: (1) to detect communicable disease; (2) to discover acute conditions calling for treatment

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during detention, and (3) to discover chronic conditions and defects which should be remedied but which do not need immediate attention.

Mr. Ransom remarks: "Except in relation to syphilis and gonorrhea . . . the present system of examination is fairly adequate for the first two of the above mentioned purposes. For the detection of chronic diseases not demanding immediate attention but calling for eventual correction, the examining system is decidedly inadequate. In the first place, not enough time is given. On one day 25 children were examined in 13 minutes. On another day, 27 were examined in 17 minutes. On a third day, 25 minutes were given to the examination of 25 children.

"In the second place, the conditions observed are rarely considered in relation to past medical history and, in the few exceptional instances, only in connection with what the child himself knows and gives."

The records are also inadequate and inaccessible. "If one wishes to know the results of the examination of a given child, he must first ascertain the date of his admission to the Juvenile Detention Home and then look in this book (a book in which the nurse enters the findings of the physician) for the records of the examinations on the day following that date. If a child has been admitted several times, the facts concerning his physical condition on the several occasions are scattered through this record book as above indicated."

*Venereal Diseases.* "With occasional exception, the most serious problem that confronts the Juvenile Court and the Juvenile Detention Home is that of gonorrhea in girls. In 1924, of 2,079 alleged delinquent boys, 33, or 1.6 per cent, were charged with sex offenses; of 628 girls, 176, or 28 per cent, were before the court for alleged immorality. Certain data indicate that the court has to deal annually with from fifty to seventy-five girls who have gonorrhea. Syphilis is so rarely found that it does not constitute a problem.

"The present procedure provides that at the time of admission to the Juvenile Detention Home, a vaginal smear shall be taken in the case of every girl. This is done by the nurse on duty at the time the girl is admitted . . . The smear is examined microscopically by the attending physician the following morning. According to reliable medical opinion, this smear taken from the vulva is an insufficient basis for a negative in so far as gonorrhea is concerned. A genital examination by a physician, with a smear from the cervix, if indicated, is much more satisfactory.

"Naturally, the fact that a girl has a venereal infection is given serious consideration by the judge in making a disposition of the case. At present, in most instances, the only data available at the time of the hearing bearing on the matter of venereal infection, is the record of microscopical examination of a smear, such as 'gonococci found in smear; local treatment advised.'"

*Recommendations.* The recommendations made by Mr. Ransom, which appear to this committee fully justified by the facts he cites, may be quoted in full:

1. "The physical examinations should be more carefully made. This involves giving more time to this phase of the work.
2. "The examinations should be private. This means that only one child at a time should be admitted to the examining room. A nurse may assist the examining physician as he or she may see fit.

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3. "Girls should be examined by a woman physician. An arrangement by which the assistant city physician, who has certain duties in the Juvenile Court, could be made an assistant attending physician of the Juvenile Detention Home would make this possible.

4. "The findings and recommendations of the examination of each child should be recorded in duplicate on special forms provided for that service. The original (in case of Juvenile Detention Home examination cases) should be kept on file in the Detention Home Dispensary during the period of residence of the child in that institution. When he or she is discharged from custody it should be filed with the other documents in the case. The duplicate, which should be on paper of some distinctive color, should also be kept in a temporary file in the Juvenile Detention Home. In case the child is to have a hearing in the Juvenile Court, this duplicate form should be turned over to the court and made a part of the child's Juvenile Court history. Should the child not become a Juvenile Court case, this duplicate may be destroyed at the time the original is permanently filed. In case of examinations made in the Juvenile Court Dispensary, the same procedure should be followed with the exception that the original copy of the examination report should be filed with the child's Juvenile Court record and the duplicate kept on file in the dispensary for such period of time and for such uses as the nurse in that department may find expedient.

5. "On readmission to the Juvenile Detention Home, the records of previous examinations of a child should be taken out of file and made available for the attending physician at the time of examination.

6. "In case a child is released from the Juvenile Detention Home without going through the Juvenile Court, the Juvenile Detention Home should inform the parents or guardian by letter as to the findings and recommendations of the examining physician.

7. "Whatever disposition the Juvenile Court may make of the case of a child, his parents, or whatever other person or institution is to have custody of him, should be informed by the court by letter as to the findings and recommendations of the examining physician.

8. "For children placed on probation or under supervision of the court, the probation officers should use their best efforts to see that the recommendations of the examining physician are carried out. Heads of the probation departments should keep careful check on this phase of the work of their officers.

9. "Some better arrangement should be developed for the taking of children from the Juvenile Detention Home to hospitals and clinics. The Detention Home should have some member of its own personnel detailed for this work.

10. "Dental examinations should be made of all children noted by the examining physician as having decayed teeth. This should apply to children examined in the Juvenile Court as well as to those examined in the Juvenile Home. The examining dentist should fill out or dictate to a clerk his part of the examination report and his findings and recommendations should be passed on to parents, etc., in the same manner as are those of the examining physician.

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11. "If possible, the dental work of the Juvenile Detention Home should be made a part of the service of the Cook County Dental Clinic. The committee of the Chicago Dental Society which is directing this work could determine what should be the nature and scope of the dental service in the Juvenile Detention Home. A full time dentist who would be a member of the staff of the Cook County Dental Clinic could be secured for the salary now paid for part time of the Juvenile Detention Home dentist and assigned to service in the home. His work would thus be under the supervision of the supervising dentist of the Cook County Clinic."

As stated in another section of this report, the most serious problem confronting the Juvenile Court and Juvenile Detention Home is that of gonorrhea in girls. The next five recommendations deal with this problem.

12. "Make the diagnosis and treatment procedure in the Juvenile Detention Home adequate. All girls admitted to the Juvenile Detention Home should be examined by a woman physician, as above indicated. (This is in accordance with the recommendation of the Children's Bureau). Whenever indicated, this examination should include a vaginal examination sufficiently thorough to determine the presence of any existing gonorrheal infection. This examination should be made within twenty-four hours of the time of admission and should not be postponed until the consent of a parent has been obtained. However, no other observation concerning genital conditions except those relating to this disease need be noted. Girls who have gonorrhoea and do not need to be sent to a hospital for treatment should be given treatment in the Juvenile Detention Home under the direction and supervision of a physician. If a woman physician is provided, as suggested in Recommendation No. 3, as an assistant attending physician, she should have charge of this treatment work.

13. "Have adequate medical and social data available for the judge at the time of the court hearing. The medical statement should be in writing and signed by the physician making the diagnosis and administering the treatment.

14. "Send a full statement of medical findings and recommendations to the institution to which each diseased girl is sent.

15. "For girls placed on probation or under other supervision to live in their own or other private homes, see that all persons concerned are thoroughly informed concerning the necessary safeguards to prevent others from becoming infected and the importance of the girl receiving adequate treatment until cured. This information and advice should be imparted by a physician. The probation officer should keep herself informed concerning the progress of the treatment and should take whatever steps are necessary to insure the child keeping under treatment. Failure on the part of the parents or other custodian to fully cooperate in this particular should be promptly brought to the attention of the court. The record should be sufficient to be informative as to the progress of the treatment.

16. "A few lectures by competent medical authorities on the significant aspects of gonorrhea and syphilis may well be arranged for the probation officers.

17. "Boys found to have gonorrhea and who are to be kept for a time

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in the Juvenile Detention Home should receive treatment from a genito-urinary specialist. This could perhaps be arranged through cooperation with the Department of Health or by the Illinois Social Hygiene League."

42. *Same: Juvenile Research  
Institute Assistance  
Outside of Chicago.*

The Institute for Juvenile Research is under the direction of the Criminologist of the State Department of Public Welfare. The Division of the Criminologist

in this department undertakes three classes of work: (1) psychiatric work in the following state institutions; the penitentiaries at Joliet and Menard, the Reformatory at Pontiac, the Hospital for the Criminal Insane at Chester, the School for Boys at St. Charles and the School for Girls at Geneva. (2) Certain extramural services: (a) Cook County Juvenile Court and Detention Home Branch; "The Oaks," a Cook County School for Educable Borderline Defectives; (b) the Lower North Side Child Guidance Clinic; (c) The South Side Child Guidance Clinic; (d) the LaSalle-Peru Township High School Bureau of Educational Counsel; (e) the Glenwood Manual Training School; (f) the Mary Crane Pre-school and Nursery School Branch; (g) State Service Visiting Clinics at Springfield, Champaign-Urbana, Tri-City Family Welfare, Aurora, Elgin, Rockford, Freeport, Herrin-Marion, Bloomington, and Joliet. (3) The headquarters work. Here are examined children referred by various private social and public agencies, physicians and others. Here also are seen a few children referred by schools that receive delinquents from the Juvenile Court; the Chicago Parental School, the Chicago and Cook County School for Boys, the House of the Good Shepherd, and the Chicago Home for Girls. At the headquarters also is a research department maintained by private endowment.

To carry out this work, exclusive of the research work, the Institute has in addition to the director, Dr. H. M. Adler, 7 psychiatrists, 10 psychologists and 10 psychiatric social workers, a woman general physician, and laboratory and clerical assistants.

The phases of the work of the Institute concerned with the penal institutions and the reformatory have been considered in connection with the report on adolescent and adult offenders. At this point consideration should be given to the psychiatric work in connection with children who come into relations with the Juvenile Court. The special branch at the Juvenile Detention Home and Juvenile Court has already been discussed. There remain for consideration the work in connection with the state schools for Boys and Girls at St. Charles and Geneva, respectively, the special school known as "The Oaks," the Parental School, the Chicago and Cook County School for Boys and the two private schools for girls—the House of the Good Shepherd and the Chicago Home for Girls.

(a) With regard to the four last named schools, the Institute has no direct relations. Children referred by these schools are examined only on request. The calendar of the institute is so crowded with cases that appointments for examination must be made for six weeks or two months ahead. Consequently few such examinations are made. During the year July 1, 1926, to June 30, 1927, no cases were referred from the Chicago Parental School; during the preceding year eight cases were referred. The Chicago

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and Cook County School for Boys referred one case in each of the two years. None were referred by the House of the Good Shepherd; the Chicago Home for Girls referred 34 in 1926 and 17 in 1927. These four schools deal with more or less serious cases of truancy and delinquency and recidivism is frequent. Children on release from the schools return to the conditions under which they previously became delinquent. Many children who are sent to St. Charles and Geneva have previously been in one or more of these schools.

There is obvious need of scientific study in the cases of many of these children if anything is to be gained from the residence at the schools. This problem belongs to the county and not to the state. The fact that the Institute for Juvenile Research, a state institution, has officially accepted responsibility for expert psychiatric examinations of some children brought before the Juvenile Court, however, probably operates to inhibit the establishment of county machinery to carry out routinely the work that is needed. The county officials can fall back on the assumption that the institute is doing all that is needed.

(b) *The Oaks School.* This school was established in 1926 to provide special training for delinquent children who are retarded mentally but are capable of education. It was initiated through the efforts of Judges Arnold and Bartelme of the Juvenile Court, Judge Henry Horner of the Probate Court, Judge Jarecki of the County Court and Mr. Anton J. Cermak, President of the Board of County Commissioners. The school at present receives only boys. The school was opened on Jan. 5, 1927, and there have been admitted altogether 57 boys, 30 of whom were still present at the close of the fiscal year, Dec. 1, 1927.

The selections for admission are made on the basis of examinations made by the Institute for Juvenile Research and look especially to the educability of the boy. Thirteen boys have been dismissed and admitted to other institutions—7 to correctional institutions and 6 to schools for the feeble-minded; 14 have been returned to the community, of whom 7 are making satisfactory adjustments and the remaining 7 have not been delinquent though the adjustments are not entirely satisfactory.

This school is still in an experimental stage, but is an excellent illustration of the possibilities that can arise from cooperation between medicine and the courts.

(c) *St. Charles School for Boys and Geneva School for Girls.* Psychiatric work in these schools is directly under the state criminologist. There is no resident mental health officer and the studies are made by the psychiatrist who performs this function at the Pontiac Reformatory, the Illinois Southern Penitentiary at Menard and in some other extramural work of the Institute for Juvenile Research. Group intelligence tests are given to all children entering the schools and special interviews with the psychiatrist are afforded to selected children.

Of sixty interviews at St. Charles in 1926 with forty-nine boys, the following recommendations for treatment were made.

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Commitment to an institution for the feeble-minded.....	16
Commitment to a state hospital.....	3
To be studied further.....	6
Require closer supervision.....	12
In need of medical treatment.....	1
Will probably adjust well on parole.....	8
Period in school should be extended.....	3
	<hr/> 49

These figures indicate the nature of the reasons for the examinations—mental defect or disease and questions of parole. The psychologic examinations are utilized in determining the kind of schooling or vocational training needed.

At Geneva the institute has maintained, since April, 1926, a resident psychologist and visits are made by a psychiatrist at intervals of from four to six weeks. Seventy-six interviews were held by the psychiatrist in 1926, ten of them being re-examinations. The recommendations made were:

Commitment to an institution for the feeble-minded.....	19
Will probably adjust well on parole.....	15
Need further training along lines indicated.....	22
Continued treatment in school and advice as to subsequent placement.....	11
	<hr/> 67

### 43. *Psychiatric Service at the Cook County House of Correction and the County Jail.*

Sentences are served both at the Cook County House of Correction (the old Bridewell) and the County Jail. Neither institution has a medical officer trained in psychiatry. Psychiatric examinations at the jail are made only on an order from the court.

The House of Correction has a good hospital for the care of medical and emergency cases brought in by the police. In addition to a resident staff consisting of a principal medical officer and internes, there is a consulting staff subject to call.

Many years ago, the consulting psychiatrist, Dr. Sidney Kuh, made regular visits at weekly intervals and trained some of the guards to note and report to him evidences of mental abnormality among the inmates. In this way he was able to detect many cases of mental disease and, with considerable difficulty, succeeded in having some of the patients transferred to the psychopathic hospital.

The present psychiatric consultant, Dr. Harry Hoffmann, visits the hospital whenever called. The facilities for observation of patients suspected of mental disease are extremely bad, these patients being relegated to the old portion of the building in which light and ventilation are quite inadequate.

Little attention is paid to mental abnormalities, though outstanding cases are segregated and sometimes transferred to the psychopathic hospital. To secure a transfer it is necessary to secure a writ of inquisition or a pardon from the mayor in cases under municipal sentence or from the governor in state cases.

The records are extremely meager and incomplete. The only record even of cases sent to the psychopathic hospital is a book in which are recorded the date of discharge, the date of admission, the name of the patient with sometimes his age, the sentence he is serving or the fine he is working out, his

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institution number, the disposition (to psychopathic hospital) which is often not filled in and the diagnosis which is occasionally recorded. As stated, all cases are not entered; even a superficial search at the psychopathic hospital revealed the names of persons who had come from the House of Correction that were not entered in this book.

This book contained the names of 45 persons from the beginning of 1926 to March, 1928. Thirty-two of these persons were found to have been received at the psychopathic hospital; one other name was merely John Doe and could not be identified. It is possible that the misspelling of names may account for some of the other failures to discover them at the hospital, but it is also probable that some were not sent there.

Little is to be gained from this phase of the survey beyond the demonstration that there is real need of psychiatric service at the House of Correction.

Dr. Hoffmann on his own initiative has taken the matter up with the Institute of Medicine which has promised to cooperate with him in an investigation with the purpose of making definite recommendations to the county authorities and the officers of the House of Correction, both of whom have promised every assistance.

44. *The Criminal Court:  
Summary of Facts  
Already Presented.*

One striking fact is the absence of any statistical review of the work of psychiatrists in the Cook County (Superior) Criminal Court. The data published by the court do not separate out cases in the trial of which the mental condition of the defendant has been investigated; they do, however, show the number of those who have been found insane, and these figures have been used in this survey. To obtain data concerning the frequency with which defendants have been examined for their mental condition it has been necessary to use various avenues of approach, already detailed, and it is probable that all instances have not been discovered. In some cases it has been learned that a psychiatrist has been called, though, in the time available, we have not been able to discover any other data—the reason for the examination, the stage in the proceedings at which it was made and sometimes even the charge against the person whose name was learned.

There are various reasons for this difficulty. In many cases a judge has requested an examination, not with the thought that the defendant was insane, but to secure information to aid him in deciding whether probation should be granted. Reports on such examinations would be given only to the judge and would not appear in any record of the proceedings. It is probable that the majority of the cases in which the facts are not known belong in this category.

The large proportion of cases in which examinations were made at the request of the court (47 of 112 in which the facts are known) is worthy of note. As already stated it is probable that many of the 53 in which the facts are not known also belong here.

It is also noteworthy that the finding of insanity is not limited to persons charged with capital offenses as is often thought. In most cases, however, examinations of persons charged with other offenses are made at the request

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of the judge. Of 138 cases in which the nature of the charge has been learned, murder or attempt to murder comprised 48.6 per cent, rape and other sex crimes 11.6, robbery and larceny 29.7, and other crimes 10.1 per cent.

From various sources we learned the names of 165 persons who were examined as to their mental condition during the five years 1923 to 1927. In the same period, 52 defendants were found to be insane. (The total number of defendants in the *four* years 1924 to 1927 was 14,690).

This cannot be regarded as excessive use of the plea of insanity, especially when it is realized that certainly 47 and probably nearly 100 of 165 examinations were requested by the court and not by the defense attorney.

Under the present method of procedure, the request for an examination is left to the recognition by laymen that there is something odd about the behavior of the defendant; sometimes it is raised because a defense of insanity offers the only hope of escaping a death penalty. Such chance or policy-directed consideration of the mental state of defendants is not fair to the accused and leads to popular distrust.

That this method of selection of those to be examined fails to detect all cases of insanity in defendants is evidenced by the fact that in the four years 1924 to 1927 fifty persons have been found insane when received at the penitentiary, even though the majority of them have been found suitable for care in the prison.

Though impartial or bipartisan commissions have been used, the most frequent method for determining the mental condition of a defendant now in use is by each side selecting its own experts. Sometimes the prosecution is refused the opportunity to make an examination.

Even under these circumstances, agreement between experts for the prosecution and defense occurs much more frequently than is generally known. In 43 of the 52 cases in which a verdict of insanity was returned and in which we have been able to learn the facts, the psychiatrists for the prosecution concurred in the diagnosis of insanity and so testified at the hearing in 39 (91 per cent). This means that there has been a disagreement between the experts on the two sides in only 26 of 65 hearings. Yet the consequence of this disagreement is so sensational that these cases completely overshadow those in which an agreement is reached.

As the answers to the questionnaires sent to judges and psychiatrists demonstrate, the members of both professions condemn the system almost unanimously.

Another outstanding fact is that the qualifications required for service as a psychiatric expert are not standardized and men are allowed to testify who have no right to the designation of expert. Judges hesitate to exclude the testimony of a man offered as an expert, even when it is clear that he cannot qualify.

The figures given demonstrate that, in the great majority of cases, a finding of insanity means almost as secure imprisonment as one of sanity. We have only one record of escape in the five-year period and that from the Elgin State Hospital. There is a greater chance of release through a hearing on a writ of habeas corpus; in granting such releases the judge issuing

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the writ acts entirely on his own responsibility; he sometimes ignores the opinions of officers of the state hospital in which the man has been confined.

Under the law a person accused of crime cannot be tried while he is insane. Yet the great majority of those found insane are tried, the issue of insanity being raised only during the trial; presumably the defense counsel hopes to establish that the defendant was insane at the time of the alleged crime but is sane at the time of the trial, though he does not openly state this. The situation would be materially changed if, when insanity is to be alleged as a defense for the crime, it should be necessary first to establish sanity and consequently sufficient mind to plead and stand trial. If found insane at the time of the plea, the defendant would not be tried on the issues of the crime until he had recovered sanity; consequently he would not merely be released from the hospital when declared sane but would be returned to the court to stand trial.

Failure to recognize insanity when present does not mean that the person convicted will be required to serve a sentence in the penitentiary. Theoretically, he can be transferred to a hospital for mental diseases, though, practically, the hospital for the criminal insane is so crowded that no patients can be transferred. The attorney general has ruled that, under the law (which is quoted in the section dealing with the municipal court), the other state hospitals are prohibited from receiving any person against whom there is a criminal charge. The only way in which a prisoner can be transferred to one of these hospitals, unless he has completed his minimum sentence, is by first securing a pardon.

Except in the case of capital punishment, therefore, failure to recognize insanity in a defendant should make little difference. It is necessary, however, that provision of adequate kind be made to care for convicts with mental disease. The principal objections to disregarding the question of sanity, unless the accused himself raises the issue, are that an insane man may be compelled to go through the ordeal of a trial, and both state and defendant are put to considerable unnecessary expense of time and money.

The principal question arises when the death penalty may be inflicted. Homicide is by far the most frequent offense that leads to a question of sanity, undoubtedly because of the death penalty. Insanity was found by juries in 4.11 per cent of murder cases and in only 0.36 per cent of all other crimes. This does not justify the conclusion that a greater proportion of murderers are insane than of persons who commit other types of crime; it probably means nothing more than that the issue is raised more frequently in the homicide cases. It seems at least probable that abolition of capital punishment would automatically abolish the contested insanity hearing.

Another feature in need of consideration is that of the method in which the expert gives his opinion. The answers to the two questionnaires demonstrate much dissatisfaction. The expert is not allowed to use his judgment in deciding what facts in the story of the life, behavior and heredity of the examinee are true. He is required to accept as true the facts given to him and to combine them with the results of his examination of the defendant if he has had opportunity to make one. Whether he obtains the facts in a hypothetical question submitted to him in court or through the story told

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him—frequently fragmentary and sometimes highly colored with the views of the informant—at the time of his examination, he rarely has at his disposal in reaching a conclusion all the facts available.

The data given, incomplete as they are in some respects, together with the results of the questionnaire sent to judges and to psychiatrists, establish beyond question that the present system of psychiatric study of persons charged with crime is unsatisfactory and inadequate as well as being costly. The outstanding features in need of correction are:

1. The chance (or choice) method of raising the question of insanity.
2. The method of selecting experts in psychiatry.
3. The method of determining the qualifications of experts.
4. The lack of adequate provision for the care of convicts who are found to be insane and in need of special treatment.

In addition, it may be pointed out that the judges by their requests for examinations of persons convicted of crime, as well as by many of the replies in the questionnaire, recognize the need of facilities for studying the criminal to determine how he should be dealt with, especially whether he should be granted probation.

Lastly, serious consideration should be given to the advisability of abolishing capital punishment; the advantages to be gained by expediting trials and eliminating most of the delays due to contests over insanity, apart from all other consideration, might be sufficient to turn the balance in favor of foregoing the small number of executions actually carried out.

45. *The Municipal Court of Chicago.* Thanks to the breadth of vision and energy of Chief Justice Harry Olson, the Municipal Court has a laboratory devoted to the study of the mental condition of persons brought before the court. This section of the survey, therefore, deals mainly with the work of that laboratory.

The laboratory was opened in April, 1914, and has been continuously under the direction of Dr. William J. Hickson. It is housed in the City Hall and receives persons for examination not only from the branches of the court, but also from other social agencies. It has nothing to say in the selection of the material for study.

The laboratory is maintained in part by the Health Department of the city, which at present pays the salary of the director. Other employes are paid from the funds of the court. In addition to the director there are at present four assistants, who perform intelligence tests and serve as clerks. No social workers are employed directly by the laboratory. One assistant, Mrs. William J. Hickson, a trained psychologist, has been present since the opening of the clinic and served for the first year without remuneration.

Reports from the municipal court are made annually, and are sometimes issued as a combined volume for the preceding triennium. These contain reports of the work of the psychopathic laboratory. A special report of the work of the laboratory was issued to cover the triennium May 1, 1914, to April 30, 1917, the first three years of its existence. A copy of this report was loaned to the committee by Chief Justice Harry Olson. It outlines briefly the history of the laboratory, gives statistical studies of the work

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accomplished, details the methods of study and the tests in use, and cites numerous illustrative cases.

With regard to the aims and purposes of the laboratory it is said: "The work of the laboratory has been not only of a practical but also of an experimental or research nature." Further, "The practical workings of the laboratory include diagnoses, both mental and physical, with reports of the same to the judges who sent the cases. The medical examinations are both clinical and laboratory as the case demands." Then follows a statement of the types of mental tests used, which include "the world test which we try to evaluate in all our cases, the most adamant test of them all, an assaying crucible of highest value, which consists of the evaluation of the reactions of our cases to their environment, a checking up of their capability of adjustment, their failures and successes at home, in school, at work, etc."

In other words, the aim of the laboratory at its inception was a study of the persons sent to it by the courts in the manner customary in every behavior clinic—a study of the man himself and an investigation of his past history. Conforming to the same standards, stress is laid on the importance of maintaining accurate and detailed records.

The statistical data cover "three years and 4,447 cases." There are some errors in calculation and the facts are not all tabulated; the statement is made, however, that the report was put together in haste and under great difficulties. The figures are of interest and may be quoted as an indication of the need of the service of a clinic of this kind. The laboratory has nothing to say concerning the selection of persons for study which is made by the judges of the various branches of the municipal court. The findings, therefore, are in no sense representative of the general run of persons brought before the court; the examinees have been selected for the reason that they presented obvious signs of possible mental disorder, signs that were obvious to judges and others without special training in psychiatry. Under these circumstances one would expect to find a large proportion of mental disorder and defect.

In comparing the reports from the laboratory of the municipal court of Chicago with those from other clinics, some individualities in the use of terms will be observed. Two of these will be discussed briefly, not in a spirit of criticism, but with a view of understanding the conclusions reached.

In the reports from the laboratory, the mental age level, as determined by intelligence tests, is used as a primary basis of classification. The terms used are in the main conventional. A new term has been introduced—"sociopath"—which, from statements contained in the reports, apparently indicates a mental age level between 12 and 16. By most other testers, this range is included within the realm of "adequate" intelligence, or, in other words, within the limits of average or normal intelligence.

The title "dementia præcox" also is used in a manner that makes some differences. This fact is recognized in the reports from the laboratory as shown in the following quotation (Twelfth, Thirteenth and Fourteenth Reports, December 2, 1917, to December 5, 1920, inclusive, page 38): "The term 'dementia præcox' is especially unfortunate, but we employ it because of the standard meaning in European clinics where this disorder was first

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classified. Its derivation is unfortunate, and it had come to have a different meaning in American use. We have employed it, in part, for lack of any better term." As used in the reports, this term is apparently synonymous with a marked tendency to criminal behavior, and the fact is stressed that criminals thus labeled show an emotional defect or loss of interest; they are not affected by the suffering and damage they cause as a person would be who experienced the average degree of feeling.

To most psychiatrists (and this committee does not agree that there is a marked difference between American and European practice) the diagnosis dementia præcox does not carry the connotation of criminal behavior; criminal acts are only occasional in this disease. From our present point of interest this may be regarded largely as an academic difference; the use of names does not involve disagreement in the conclusion that society needs some provision for dealing with the type of person so labeled. At present the only facilities are those of the penal or correctional institutions, an association that necessarily follows from the connection with crime. This committee does not agree, however, that the proper place for segregation of these persons is in the state hospitals.

46. *Same: Psychopathic Laboratory Data, 1914-1917.* Of the 4,447 cases (the total is given differently in different places) that form the basis of the report of 1917, 3,259 are tabulated and are derived from the different branches of the court as follows:

Boys' Court .....	2,025
Morals Court .....	710
Domestic Relations Court.....	266
Bastardy cases .....	66
Police Courts .....	192
	3,259

The distribution of these cases according to mental age rating is shown in the following table, together with the frequency of the occurrence of behavior types that are labeled, respectively, dementia præcox and psychopathic constitution. In many instances these were also complicated by alcoholism, drug addiction and various nervous diseases, as well as by epilepsy in 25 cases.

TABLE 7. BEHAVIOR TYPES AND INTELLIGENCE RATINGS GIVEN BY THE LABORATORY

	No. of Cases	Dementia Præcox	Psychopathic Constitution
Average intelligence .....	319	136	45
Borderland sociopath .....	246	70	23
High and mid grade sociopath.....	183	76	27
Low grade sociopath.....	250	122	58
Borderland moron .....	58	36	14
High grade moron .....	1,614	547	101
Middle grade moron.....	422	128	16
Low grade moron.....	162	31	10
Imbecile .....	4	—	—
Idiot .....	1	—	—
Total .....	3,259	1,146	294

The mental age definitions for the groups below the borderland moron are

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given as: high grade moron from 10.1 to 12; middle grade moron from 9.1 to 10; low grade moron from 7.1 to 9; imbecile from 3.0 to 7.0; idiot below 3.

Translating these figures into more usual terms for such statistics and including the average and borderland sociopath as adequate intelligence, the other two sociopath groups and the borderland moron as inferior intelligence, and the remaining groups as feeble-mindedness, the figures, with percentages, will read as follows:

TABLE 8. REARRANGEMENT OF FIGURES OF TABLE 7

	No. of Cases	Per Cent	Dementia Præcox	Per Cent	Psychop. Constit.	Per Cent
Adequate intelligence .....	565	17.3	206	36.5	68	12.0
Inferior intelligence .....	491	15.0	234	47.6	99	20.0
Feeble-minded .....	2,203	67.6	706	32.0	127	5.7
Total .....	3,259	99.9	1,146	35.1	294	9.1

From these figures it is clear that the cases selected for examination at the laboratory were particularly those with obvious deficiency in intelligence in the main; there is no reason, however, to assume that study of all cases passing through the Municipal Court would give results very different from those with persons in the penitentiary or in the general population. The total number of persons passing through the Municipal Court in these years is not given.

Regrouping these cases according to the particular branches of the court from which they were sent to the laboratory:

TABLE 9. LABORATORY RATING OF PERSONS FROM DIFFERENT BRANCHES OF THE MUNICIPAL COURT

	No. of Cases	Inferior Intellig.	Feeble- minded	Dementia Præcox	Psychop. Constit.
Boys' Court .....	2,025	274	1,385	656	111
Morals Court .....	710	121	487	274	75
Bastardy cases .....	66	8	41	10	5
Domestic Relations Court....	266	54	171	112	64
Police courts .....	192	34	119	94	39
Total .....	3,259	491	2,203	1,146	294

The report contains no statistical statement of the recommendations made by the laboratory nor of the actual disposition made by the courts of the persons studied. The comments interspersed throughout the report, however, lead to the conclusion that the laboratory advises internment in a special institution in the vast majority of cases. On page 165 it is said: "We have committed as high as ten cases a day." (The average daily attendance at the laboratory would be less than five if 4,447 persons are seen in three years). On page 167: "The only practical solution we see at present for the treatment of these cases after they are recognized is farm and industrial colonies, as extensive as possible, built on the order of detention camps." (This recommendation should be considered in connection with the number of escapes from the state hospitals by persons committed from this laboratory which are reported later). On page 168 the director says: "For the majority of cases it will mean for life, but there is a certain percentage of the higher grade cases that after a certain number of years might be examined by a

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board of psychiatrists to consider parole." Furthermore, "There is a small but sufficiently numerous group, however, that will justify another line of treatment; this is the light borderland type who only occasionally succumb to delinquency, who might be redeemed to socio-economic usefulness when encouraged and advised by properly trained social workers."

47. *Same: Subsequent  
Reports of the  
Laboratory.*

Subsequent to the report of 1917 just analyzed, there have been apparently no detailed reports of the work of the psychopathic laboratory. The committee has had access to two later triennial reports, one covering the years 1917 to 1920, kindly furnished by Judge Daniel P. Trude, and the other for the years 1921 to 1924, inclusive, furnished by the clerk of the Municipal Court.

In the former, it is said, "One of the outstanding facts to be noted at this time is that the earlier report (that of 1914 to 1917) appears to have fully covered the entire field." Insistence is made that "in every case complete examination is made, embracing physiological, neurological, anthropological, hereditary and environmental data. In every case complete written records are made and preserved. Every record is signed by the director. No report is submitted to a judge which is not authenticated by the director, who remains at all times responsible for every report. This plan has been followed from the first day. *There has been no informal reporting, no whispering to judges, no guessing, no evasion of personal responsibility.*" (Italics by this committee).

In this report, also, the director stresses the fact that "there have been thirty or more instances of killing by young men who were at some previous time examined after committing lesser offenses, and found to be of the potentially dangerous type, namely, a combination of low intelligence and abnormal activity." Yet we have been unable to find that this prognostication was ever transmitted as a warning to the courts or to the institutions to which the persons were sent.

Some further light is thrown on the meaning of the term dementia præcox as used in the laboratory. A combination between dementia præcox and defective intelligence is given as "the criminal type, or at least the potentially criminal type."

In this report, also, Judge Trude has analyzed the work of the Boys' Court from December 2, 1918, to August, 1919. He points out that the real problem of this court is the repeater or recidivist who becomes the criminal of the future. He says that "at least fifteen per cent of those charged with misdemeanors are repeaters. Of the six thousand cases in the Boys' Court during my assignment there I selected 287 cases which appeared to call for laboratory investigation." This selection was guided mainly by the file records. "Dr. Hickson's report shows that mental defectiveness must have been the underlying cause." Judge Trude reaches the important conclusion: "Finally, the improvement of the existing penal system, which now appears essential if any real progress is to be made in protecting society from its irredeemable offenders—long continued restraint of defective delinquents—is nothing more nor less than the creation of a special protective environment which will at once protect society from the habitual criminal and protect him from the consequences of his own acts, if unrestrained."

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Dr. Hickson then gives an analysis of 285 cases sent for study by Judge Trude of an exactly similar nature to that in the report previously analyzed. He, however, gives a classification of mental defectiveness into two groups which clarify to some extent the terms he uses. It should be pointed out, however, that the groups of Juvenile and Adult Paresis, Senile Dementia, and Manic-Depressive Insanity are of very minor importance in the total figures given.

Intelligence Defect	Affective or Emotional Defects
1. Juvenile and Adult Paresis	1. Manic-depressive insanity
2. Senile Dementia	2. Dementia præcox
3. Feeble-mindedness	
a. Idiot (mental level 1 to 3 years)	a. Paranoid
b. Imbecile (mental level 3 to 7 years)	b. Katatonia
c. Moron (mental level 7 to 12 years)	c. Hebephrenia
d. Sociopaths (mental level 12 to 16 years)	d. Simple Schizophrenia

In the report to the end of 1924, it is said, "There has been no change in the operation of the laboratory and no new findings of a scientific nature beyond those previously reported. Results have been uniformly corroborative of the findings first reported. Studies of heredity continue to illustrate the correlation between defective stocks and delinquency."

On page 178 of this report a brief excerpt is given from a promised publication dealing with the socio-economics of crime and criminals. Tabulations of the intelligence ratings for 825 persons who had followed different occupations are given. Of this number 563 or 68.25 per cent were committed to institutions as feeble-minded or insane. The director also deplores the fact that "the demands made on the laboratory for the examinations of cases have been so great that it has practically engrossed the entire time and energy of the staff, leaving little over for research work."

While the work of the laboratory as recorded establishes beyond question the need for its existence, the results that have been published fail to show the practical consequences that have followed from its operation. This committee has endeavored to follow up the findings and disposition by the courts in a group of cases at the psychopathic laboratory, but has been hampered by inability to secure adequate data for the purpose. Until recently, no record has been kept in the Municipal Court of the names of persons sent to the laboratory nor of the recommendations that were made as the result of the examinations. From the clerk of the court it was learned that no written reports are sent to the court from the laboratory; all reports of cases are made by telephone and consist only of certain recommendations, which are of three kinds: recommended for admission to the County Psychopathic Hospital, recommended for admission to the Lincoln State School, and returned to the court with a report; in regard to the last group we have been unable to find in any instance that any further report was made to the

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court. In no instance is there a statement of the diagnosis; in some it was said that the examinee was not committable even though he may have had some mental inferiority.

As the result of the publicity that followed examination at the laboratory of alleged gangsters on the request of police officers, the clerk of the Municipal Court has, since October 22, 1927, maintained a record of all persons sent from the various branches of the court to the laboratory for study. From this source we secured a list of all examinees from October 22, 1927, to March 9, 1928. The outcome to date for those examined during the two months November and December, 1927, was investigated. But the number of cases studied is admittedly small, and may, as Dr. Hickson has objected, be far from expressing accurately the facts that would come to light if a larger number was followed up. We, therefore, have not attempted to draw any conclusions from the data of this brief period.

The facts learned, however, do indicate the advisability of follow-up work; only in this way can the laboratory and the public learn the value of the examinations made and plan constructively modifications that may be needed to render the service more effective. This committee recommends, incidentally, that when the laboratory is enlarged and provided with more assistance, as is urgently needed, means be provided for following up the careers of persons who have been examined and thus learning the results that accrue from the recommendations made by the laboratory.

We here set forth merely the figures gleaned from the records of the above brief period.

TABLE 10. PERSONS SENT TO THE PSYCHOPATHIC LABORATORY FROM THE MUNICIPAL COURT BRANCHES, OCTOBER 22, 1927, TO MARCH 9, 1928

October 22 to 31.....	35
November .....	74
December .....	80
January .....	118
February .....	97
March 1 to 9.....	35
	439

If this proportion is maintained it would mean that approximately 1,100 persons are sent to the laboratory by the court in a year.

TABLE 11. TOTAL CASES IN THE MUNICIPAL COURT DURING NOVEMBER AND DECEMBER, 1927

	New Cases				Cases Disposed of			
	Prelim. Hearing	Quasi. Crim.	Crim.	Total	Prelim. Hearing	Quasi. Crim.	Crim.	Total
November ...	17,566	2,167	5,929	25,662	2,228	20,007	8,429	30,734
December ...	13,004	1,630	4,644	19,278	1,344	13,163	4,111	18,618
	30,570	3,797	10,573	44,940	3,572	33,170	12,540	49,352

During this same period 154 persons were sent for examination to the psychopathic laboratory. The branches of the court, and other agencies, from which these persons were sent were:

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	Cases	Per Cent
Morals Court .....	4	2.6
Domestic Relations .....	8	5.2
Boys' Court .....	24	15.6
Police Courts .....	101	65.6
Jury Courts .....	3	2.0
Social Service Department of Domestic Relations Court...	2	1.3
Other agencies <sup>1</sup> (persons against whom there was no charge)	9	5.8
Unknown .....	3	2.0
	154	100.1

<sup>1</sup> Among other agencies were: Narcotic Division of Federal Court, 1; Juvenile Court, 1; private agencies, 5.

It is of interest that the proportions from the different branches are markedly different from those in the first report of the laboratory. The figures given there (May 1, 1914, to April 30, 1917) were:

	Cases	Per Cent
Morals Court .....	947	20.7
Domestic Relations .....	1,275	27.9
Boys' Court .....	2,025	44.2
Police Courts, etc. ....	329	7.2
	4,576 <sup>1</sup>	100.0

<sup>1</sup> In the body of the report the total number is given as 4,447, and the total in the table as 4,486.

The recommendations made to the courts by the laboratory in the 154 cases were:

	No. of Cases	Per Cent
Psychopathic Hospital .....	111	72.1
Lincoln State School .....	7	4.5
Returned to Court with a Report .....	36	23.4
	154	100.0

From this it will be seen that commitment as insane or feeble-minded was advised in 76.6 per cent of the cases.

Actual disposition in the 154 cases:

Sent to the Psychopathic Hospital .....	101
Not sent, though recommended .....	10
Sent to Lincoln or Dixon .....	4 <sup>1</sup>
Unknown (mainly dealt with by the courts) .....	39
	154

<sup>1</sup> Two of these are still awaiting a vacancy at Lincoln.

Of the 101 persons sent to the Psychopathic Hospital, some were committed and others discharged as not in need of commitment. The figures are:

Committed as insane:	
Placed in care and custody of relatives or friends .....	5
Sent to Chicago State Hospital .....	10
Sent to Kankakee State Hospital .....	12
Sent to Elgin State Hospital .....	19
Placed in Veterans' Bureau Hospital .....	1
	47
Discharged as not insane .....	54
	101

The proportion of those sent to the Psychopathic Hospital who were committed is 46.5 per cent; the proportion committed of those who were

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recommended by the laboratory for commitment is 42.3 per cent; the proportion of the total number of persons examined at the laboratory who were committed as insane is 30.5 per cent.

At first glance it may seem of little importance that more than one-half of the persons sent to the Psychopathic Hospital for commitment from the laboratory were not there found committable. The serious feature of this situation lies in the fact that in order to be received at the Psychopathic Hospital it is necessary for any criminal charge to be dropped. The law states:

"Chap. 85. Section 13. Jurisdiction over the persons of insane persons not charged with crime is vested in the county court."

"Chap. 85. Section 30. Nothing in this act shall be construed to apply to insane persons, or persons supposed to be insane, who are in custody on a criminal charge."

This has been interpreted by the judge of the County Court of Cook County and by a ruling of the attorney general of the state as prohibiting the reception at a county psychopathic hospital of any person against whom a criminal charge is pending. Under this ruling, if a man is sent to the psychopathic hospital and is not committed as insane he cannot be held or punished for a criminal offense; in order to secure admission to the hospital all charges must be reduced to misdemeanors, and the usual offense that stands against those sent to the hospital is disorderly conduct.

The law defining insanity, Chap. 85, paragraph 1, also is specific in excluding mental deficiency that has existed from early years and simple epilepsy. The clause reads:

"A person shall be considered to be insane who by reason of unsoundness of mind is incapable of managing and caring for his own estate, or is dangerous to himself or others, if permitted to go at large, or is in such condition of mind or body as to be fit subject for care and treatment in a hospital or asylum for the insane: Provided, that no person idiot from birth, or whose mental development was arrested by disease or physical injury occurring prior to the age of puberty, and no person who is afflicted with simple epilepsy shall be regarded as insane."

Since the primary basis of classification adopted by Dr. Hickson is that of mental deficiency from birth, it is not surprising that many persons sent by him to the psychopathic hospital are found by the county court not committable. The releases from the state hospitals of those who are committed indicate that the court leans to a liberal interpretation of the statute in favor of commitment when possible. The state hospitals are grossly overcrowded with patients concerning whose insanity there can be no doubt; unquestionably this is a factor in leading them to release patients whose mental condition not only does not comply with the legal definition but also constitutes a detriment to the proper care and treatment of patients who belong there properly.

That the finding that persons sent to the County Psychopathic Hospital from the Municipal Court laboratory are not committable is a practical problem is well illustrated by a report sent to Judge Helander by Dr. F. J. Gerty,

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Superintendent of the Psychopathic Hospital, in response to questions raised by the judge concerning the release of persons sent from his court. There were 48 cases in the list, but 4 of the persons involved had not been sent to the hospital. Of the remaining 44, 23 were adjudged insane in the County Court; 19 of these were sent to state hospitals and 4 were placed in the custody of some friend.

The data cited suggest that from 1,100 to 1,500 persons are selected annually by the judges of the Municipal Court for examination at the laboratory. It is not possible to reach a conclusion concerning the exact number of persons from which these selections are made, but it is probably in the neighborhood of 25,000. Excluding cases in which for any reason the accused is discharged or the case is dismissed (together these constitute more than two-thirds of all cases brought before the Municipal Court of which there are about 300,000 annually), and excluding also those cases that are dealt with by the imposition of fines (some of these persons are sent to the House of Correction to work out the fine), there remain, in round numbers, approximately: 2,500 cases in the Boys' Court; 4,000 in the Morals Court; 1,500 in the Domestic Relations Court; 15,000 in the Police Courts, annually. Approximately 3,500 cases are transferred to the Criminal Court of the county, 4,000 persons are placed on probation, and the remaining 15,500 cases result in sentences to the House of Correction or the County Jail.

From the data cited, it appears that commitment as insane is advised in approximately 75 per cent of persons examined at the laboratory. This proportion is extremely high when compared with the recommendations reported from the Recorder's Court of Detroit (6 per cent), from the Municipal Court of Philadelphia (2 per cent) and from other clinics of this type. The findings at the Chicago clinic indicate either: (1) that the selection of cases for examination is made with great accuracy and acumen, or (2) that the diagnoses and recommendations are very greatly colored by the personal views of the director as to the need of commitment.

That the judges of the court have accepted the findings of the laboratory is evidenced by the fact that of 111 persons recommended for inquisition at the psychopathic hospital, 101 (91 per cent) were actually sent there.

Examinations made by the attending staff of the county hospital resulted in the recognition of some degree of mental abnormality in 88 per cent of the cases sent from the laboratory; only 47 per cent of them, however, were found insane; twelve of the 101 were discharged as without mental abnormality. Judging from a letter addressed by the superintendent of the hospital to Judge Helander, it appears that the county court leans strongly to compliance with the recommendations from the Municipal Court laboratory when this is in any way possible. This appearance is borne out by the fact that of fifty-three persons committed to the state hospitals five were discharged as not insane and at the end of a year only nineteen were still in the hospitals.

Another fact of importance is that nearly 25 per cent (thirteen of fifty-three) had escaped from the hospitals by the end of a year. The state hospitals are greatly overcrowded and it is apparent that there is some

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laxity of supervision; it should be noted that of 288 consecutive persons committed to these hospitals during the same period, persons who had not been through the municipal courts, 27 (9 per cent) had escaped at the end of a year. These facts suggest that many of the persons who are committed as a result of recommendations from the laboratory of the Municipal Court cannot be adequately cared for in the state hospitals.

One principal fact that stands out from this survey, then, is that the laboratory maintains standards for commitment which it has failed to adapt to meet the legal situation in spite of fourteen years of experience with the interpretation of the statutes governing commitment for insanity by the county court and the officers of the state hospitals.

The judges of the Municipal Court, Judge Trude in particular, and the director of the laboratory, have justly stressed the importance of scientific handling of the cases that come before the Boys' Court. It is from this group that come those in danger of committing serious crimes later. Yet the number of persons sent from this branch has fallen greatly since the laboratory was opened. During the first three years, the cases from this court constituted nearly 44 per cent of the total studied at the laboratory; in the two months of 1927 surveyed by this committee (the number is admittedly small), they formed only 16 per cent.

Only 8.3 per cent of the Boys' Court cases resulted in recommendations for commitment as insane. Of the police court cases, on the other hand, 88.3 per cent had this outcome. In the main, the latter were minor offenses (alcoholism constituted the principal factor in 35 per cent), though some of them had been repeated a number of times. Many of the charges in the Boys' Court cases were of more serious nature and the dangers of future offenses were often great.

In the majority of the cases from the Boys' Court (nearly 80 per cent), including all those with more serious charges, the examinee was returned to the court "with a report." We have been unable to learn that any report was sent other than that the person was not committable. In spite of this, the official reports of the laboratory reveal diagnoses of feeble-mindedness with dementia præcox and psychopathic constitution as frequently in cases from the Boys' Court as from other branches.

Hence, one must conclude that the laboratory does recognize the need of dealing with cases from the Boys' Court in a manner different from that adopted in police court cases, and does not advise commitment.

The laboratory, as far as could be learned, apparently offers no advice of a constructive character from its studies in these Boys' Court cases. If this conclusion is correct, one can understand why there has been a reduction in the number of persons sent for examination from this branch of the court.

It is presumably for the type of person who is sent from the boys' branch of the court that the laboratory has recommended the establishment of special institutions. The director has said in his report that, in most cases, care in such an institution should be continued for life. This committee agrees that provisions should be made, either in a special institution or in a special division of an existing penal institution. Little is to be

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gained by recommending commitment to state hospitals, which have failed to hold many of those who have been committed. Furthermore, it is evident that for some reason (probably, mainly because a person under criminal charges cannot be received at the psychopathic hospital) the laboratory does not advise commitment to a state hospital in most cases from the Boys' Court, in spite of the fact that the diagnoses given in the statistical tables of the reports from the laboratory are apparently identical with those made in the cases of persons sent to the laboratory from other branches of the court.

48. *Same:* In commenting on the operation of the laboratory, this committee desires specifically to endorse the need of maintaining a psychopathic clinic in connection with the Municipal Court and to recommend enlargement of its scope and facilities. Its origination and establishment by Judge Olson was a big step forward, and has been copied in other cities.

The laboratory in its later reports has given out only the most general statements of its findings and recommendations. This committee failed to secure from the laboratory on request any statement beyond a general one concerning the frequency of mental deficiency in those examined.

No reports of the results of examinations, except as regards committability, are sent to other agencies (the county psychopathic hospital, the state hospitals, the prison, the reformatory or the house of correction) to which examinees may subsequently be sent. No follow-up is made of the patients or of the results of recommendations except such as comes from the reappearance of an examinee at the laboratory.

Even the reports to judges of the Municipal Court are no longer made regularly in writing and have not been for some years; the telephoned report expresses only an opinion on the committability of the examinee and in this, as already stated, the laboratory apparently maintains its own standards and disregards the provisions of the statutes.

Throughout its history the laboratory, in spite of requests for more help, has been undermanned and insufficiently provided with funds. Failure to secure more recognition is undoubtedly due, in part at least, to failure to cooperate with other agencies and to face the practical side of its work. It is obvious that little of practical value in the administration of criminal justice is gained by examining persons accused of crime unless at the same time consideration is given in the reports made to the practical facilities available for treating the abnormalities found. It helps little to advise that persons should be committed to an institution when this is not possible under the law.

The laboratory has apparently been consulted little in a service which appeals to this committee as the one of greatest importance. This concerns the problem of deciding when probation should be granted. The results of a psychiatric examination would frequently, in the opinion of most judges, be of great value to the court in deciding this difficult question. Such an examination, necessarily, must be much more than the making of an intelligence test; indeed, data thus secured are of far less importance than those secured by any other phase of a psychiatric examination.

That this is accepted as a highly important function of a clinic of this

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kind is amply demonstrated by the reports of the work of other clinics. The value does not end with the determination of the advisability of probation, but is carried over into assistance in the actual supervision of the probationer.

### (V) RECOMMENDATIONS

#### 49. (A) *Improvements in the Present System.*

In making recommendations for changes in the existing method of providing for the psychiatric study of persons charged with crime this committee has endeavored to adhere to practical considerations and as far as possible to existing laws. A logical solution of the problem as a whole is possible only with drastic changes, constitutional as well as statutory, for which public opinion is not yet prepared. The recommendations, therefore, will be divided into two parts, the first dealing with changes that can be fitted into existing conditions with comparatively minor changes in the law, and the second with a more complete plan that must await much educational effort and thoughtful study. The latter is put forward with the purpose of laying a foundation for a goal toward which to work and not with the expectation that it can now be adopted.

It is necessary to deal separately with criminal and quasi-criminal charges or misdemeanors. This distinction conforms practically with the cases disposed of by circuit and superior courts on the one hand, and by the Municipal Court on the other, though there is some overlapping in jurisdiction.

Furthermore, capital punishment introduces an element into a trial for certain crimes which sets these apart from the great mass of court procedure and leads to special efforts to secure mitigation of the sentence. It is in these cases, particularly, that a defense of insanity is most often used; it is also in these cases that a finding of insanity is of the greatest practical importance because of its effect on the penalty involved. Hence, there is justification for special consideration in these cases.

#### 50. *Same: The Criminal Courts.* Capital Offenses.—The measures recommended are:

(a) *Routine examination, before arraignment*, of all persons charged with a capital offense, by experts employed by some state authority having no official connection with the trial of criminal cases.

This can be secured by the passage of an act similar to the Briggs Act (Mass. Acts, 1921, Chap. 415, as amended by Mass. Acts, 1923, Chap. 331, and Mass. Acts, 1925, Chap. 169) of Massachusetts. The Illinois State Department of Public Welfare would take the place of the Massachusetts Department of Mental Diseases.

It would operate throughout the state.

The report of the experts employed by this body should be made in writing to the court, the prosecutor and the defense attorneys. The experts should be placed on the witness stand by the court, present direct testimony as to findings made at the examination and the opinions arising therefrom in answer to questions by the court, and be subject to cross examination by both sides.

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If the accused person is found insane at the time of the examination he should not be tried on the issues of the alleged crime but should, when the finding of insanity is affirmed by the jury, be detained in a hospital for mental diseases (preferably in one for the criminal insane) until he has recovered—a fact of which the court should be notified by the managing officer of the hospital after a conference of the staff of medical officers. This would obviate hasty or ill-considered release on a writ of habeas corpus, as recovery from the insanity, however determined, would mean return to the court of original jurisdiction for trial on the issues of the crime.

When, for any reason, examination of the accused is refused or when it is alleged that he has recovered from an insanity that existed only at the time of the crime, the case should be tried on the issues and the experts of the state department should be furnished in some satisfactory manner with all facts established by the evidence to be added to the results of examinations that have been made, if any, before taking the witness stand or expressing an opinion on the mental condition of the accused.

Similarly, when the accused is found sane at the time of the examination by the state experts, the latter should be furnished with all facts brought out at the trial before expressing an opinion as to the mental state of the accused at the time of the alleged crime and before being placed on the witness stand.

(b) Provision should be made for *observation of the accused* when necessary in a special division of the jail or in some specially designated hospital under the charge of attendants trained in the care and observation of persons afflicted with mental disease.

(c) Provision should be made whereby the physicians for the state department can secure an *adequate history* of the life and social adjustments of the accused so far as they are available.

(d) No physician should be permitted to testify as an *expert*, whether employed by the state department or by the prosecutor or defense attorneys, unless, before the trial, it has been established to the satisfaction of the court that he has qualifications that comply with a definite standard. This standard could be established by a qualified board of examiners or by some neuropsychiatric authority such as the Chicago Neurological Society.

(e) Adequate facilities are needed for the *secure hospital care* of those found insane. The existing hospital for the criminal insane receives only men and is not only too small but also lacking in facilities for medical treatment and even sanitary housing. Since this hospital is required also to receive convicts found insane in the penitentiaries, it would be an advantage to have it located within easy access of the prisons.

(f) Provision of a special institution, of a type similar to the Disciplinary Barracks of the United States Army, is needed for the care of persons found guilty of crime (regardless of its nature) who present anomalies of behavior of the type described as *psychopathic personality* or psychopathic constitution. It is to this group that belong the persons described as habitual criminals or recidivists; they constitute difficult problems in any institution to which they may be sent; they are now to be found in prisons, reformatories, schools and houses of correction, state hospitals

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and feeble-minded schools. This could if desired be established as a special division of the penitentiaries.

(g) Special provision also is needed for the safe care of the type of person described in Massachusetts and New York as *defective delinquent*; in these persons there is a combination of some degree of feeble-mindedness with the behavior anomalies classed as psychopathic personality. This group could be provided for in association with those in group "F" by suitable subdivisions, or in a special institution.

(h) The *maximum term* of all sentences (exclusive of capital punishment) for a felony should be life imprisonment; variations in the minimum sentence are not important in this connection.

5I. *Same:* (a) The number of cases coming under this category makes *routine examination before arraignment*, though desirable, at present almost impracticable. *Non-Capital Felonies.* Trial in such cases, also, is not so serious an ordeal as when the death penalty is in question; most such trials are quite brief. With conviction, also, there is opportunity for extended study and observation of the accused through which insanity or other mental abnormality can, with suitable provisions, be recognized and dealt with appropriately.

When there is obvious reason to believe that a defendant may be insane or when the defense proposes to introduce insanity as a defense in the trial, the court should have authority on receiving proper notice to refer the case to the state department of criminology for examination as provided in cases of capital offenses, with identical provisions for the procedures to be followed. This seems to us preferable to the provisions of the California law (the constitutionality of which is now before the Supreme Court) according to which the question of sanity is heard after guilt has been determined. Much is gained by separating the two hearings (guilt and mental responsibility), but it seems improper to try a man who may be insane.

(b) Outside the question just considered, the principal problem that comes before the court in cases in which the defendant is found guilty (provided all sentences are indeterminate with a maximum of life imprisonment) is that of the *advisability of probation*. Consideration of probation should be limited to certain classes of offenders—for example, those who have not previously been convicted of a felony and those who have not been previously convicted of a misdemeanor more than once.

Before being placed on probation, all persons found guilty of a felony should be examined psychiatrically. For this purpose it would be well to establish a *clinic in connection with the court*.

Reference to the clinic would be routine and automatic.

The clinic should be provided with facilities for investigating the life and social history of examinees as well as for making all necessary medical and psychometric studies. Reports of its findings with diagnoses and forecasts of future behavior and reaction to supervision should be made in writing to the judge alone. When the person is denied probation and is sent to a penal or other institution, copies of the findings should be sent to the institution.

The clinic should have close relations with the probation department,

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not only for the purpose of assisting in the supervision but also for advising and planning its character.

This clinic could serve also, when needed, for the advice of the police and preparation department of the prosecuting attorney with regard to the mental condition of suspects and witnesses in connection with crime.

(c) Persons not released on probation but sentenced to a penal institution—whether jail, house of correction, reformatory or prison—should be *examined as a routine at the institution* to which they are sent and provisions are needed for making these examinations. The state prisons and reformatory have mental health officers, though the service is inadequate; the Bridewell and jail have no such assistance. This service should be intimately related to the parole machinery and the information it secures from its studies and observations should be the most important factor in determining release.

Transfers by commitment to special institutions for the insane, the psychopath, the defective delinquent, and the feeble-minded should be made possible whenever indicated by these studies. The needs for these institutions have already been indicated.

52. *Same: Quasi-Criminal Offenses.* The Municipal Court of Chicago already has a psychiatric clinic; it should be enlarged and made more practically useful to the court. Questions of committability, judging from the experience reported by similar clinics elsewhere, should constitute only a small part of the work of this clinic.

The enormous number of persons dealt with in this court precludes the possibility of routine examination and necessitates some method of selection of cases for examination, which should be as automatic as possible.

Here, again, this committee believes that the most valuable service to be rendered concerns advice that will aid in determining for or against probation and in prescribing the conditions of the supervision needed. The number of persons now placed on probation is approximately 4,000 yearly. The present staff of the psychiatric laboratory is insufficient for the examination of this number, even if the personnel were selected with the nature of the work clearly in view. The general plan and personnel of the medical clinic of the Philadelphia Municipal Court appeals to us as an excellent guide to what is needed.

Bearing in mind the close relations between the House of Correction and the Municipal Court, it seems to us that there is a good opportunity for building up a cooperative service with the Municipal Court clinic and the hospital of the Bridewell.

In addition to the problems of probation, the question of previous convictions should also be a criterion for determining the need for psychiatric study. With this should be provided the possibility of indeterminate detention in special institutions for psychopathic persons and defective delinquents. The actual standards requiring examination in the clinic should be determined by statistical studies of the size of the problem and the facilities of the clinic that can be made available. Cooperation with the probation officers, if selected for merit and not for political affiliations, would probably

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help materially in the work of the clinic without adding greatly to its personnel.

The essential features for improvement seem to be:

(a) The furtherance of work designed to make the fullest use possible of the means for supervision in the community;

(b) Provision for the safe detention of those who by reason of real mental abnormality cannot make acceptable adjustments in social life;

(c) Cooperation with other public agencies that will place the information possessed by one at the service of the others;

(d) Cooperation in the definition of standards of committability in conformity with existing laws and their practical operation.

53. *Same: The House  
of Correction and  
County Jail.*

The study that it has been possible for this committee to make in the time available has been entirely inadequate to justify any detailed recommendation concerning the medical service of the Bridewell and the county jail. It has served only to establish the fact that conditions are particularly bad and that there is urgent need of improvement. The principal recommendation, therefore, is that more detailed study should be made in these institutions. The task is large, as the admissions to the Bridewell alone numbered more than 18,000 in the year 1927.

54. *Same: The  
Juvenile Court.*

To supplement the work now being done by the Institute for Juvenile Research, there is need of the employment by the county of full time psychiatrists and psychologists sufficient in number to provide for the routine examination of all children brought before the court by reason of delinquency and truancy. This clinic should cooperate with the Compulsory Education Bureau of the city schools and with the probation department in the supervision of children released from the Parental School, the Chicago and Cook County School for Boys and the two schools to which delinquent girls are sent. The medical examination of children in the Detention Home and at the Juvenile Court requires more time than is now given to it, and a reorganization of methods.

55. *Same: Outside  
of Chicago.*

The recommendations made in this section are comparatively easy of solution in larger communities like that of Chicago. They present many difficulties in judicial circuits in which the volume of work is not sufficiently great to require the service of a full time clinic. This could be met by providing for traveling clinics and for cooperation between adjoining jurisdictions. In some communities, too, there could well be a fusion between the psychiatric work in connection with the criminal and the quasi-criminal courts.

Another difficulty concerns the problem of securing adequately trained psychiatric experts. This can best be met by securing the cooperation of medical schools and universities in training men for this type of work. Cooperative arrangements for temporary assistance could also be made with state hospitals, prisons and other institutions—the local authorities furnishing the more routine and less expert assistants and the state supple-

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menting this with more highly trained consultants. This type of cooperative work has been satisfactorily operated in connection with the Juvenile Court of Cook County where the county provides the less expert workers and the State Institute for Juvenile Research furnishes psychiatric experts.

56. (B) *Radical Reorganization of System.* From the point of view of public security it makes little difference whether a crime is committed by a sane or an insane person.

(a) *Felonies.* The chief difference concerns the liability to commit further crime. It seems reasonable to assume that the greater liability exists with persons who have some mental abnormality. It is, therefore, with this class that the greatest strictness should be observed. Nevertheless, it is with this class at present that the greatest chances are taken.

The courts are crowded with cases involving persons who have repeatedly committed crimes and who are no sooner released from prison than they are again arrested charged with a new crime. Most of these persons have something fundamentally wrong with them which is not capable of cure.

With these considerations in mind, it seems logical to conclude:

(1) Questions of responsibility, mental or otherwise, should play no part in the determination of guilt. The sole question put to a jury should be, "Did this person commit the offense with which he is charged?"

In the great majority of cases this is easily answered. Pleas of guilty are far more frequent than convictions.

(2) Conviction should automatically carry with it an indeterminate sentence of which the maximum is life imprisonment.

(3) Every person convicted should be studied psychiatrically and medically to determine:

(a) What treatment is needed to rehabilitate this person if it is possible?

(b) Where can this treatment be administered with prime regard to protection of society?

Should the convict, in accordance with any specific restrictions that may be adopted, be suitable for consideration of probation he should be brought before a judicial board and the results of the examination made should be presented.

(4) Release from custody should be determined only by study of the convict and not on the basis of any rule of thumb based on the nature of the crime committed.

57. *Same: (b) Misdemeanors and Delinquencies.* All offenses of a quasi-criminal nature, including delinquencies during juvenile court age, if repeated should

lead to sentences that are as indeterminate as those for felonies. Release again should be granted only on the basis of appropriate evidence that social adjustment is possible.

Probation should be determined in a manner similar to that for felonies.

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58. *Same: (c)* To carry out the procedures outlined there would  
*Machinery* be necessary:  
*Needed.* (1) One or more clearing houses with suitable subdivisions for proper segregation according to sex, age, and kinds of persons, where the examinations after conviction would be conducted.

(2) An ample number of institutions equipped for different forms of treatment suitable for the insane, the psychopathic, the defective delinquent, the feeble-minded, and those in need of correctional education—all under the control of a central authority to whose care every convicted person is entrusted. Transfers should be made from one institution to another when and as needed. The correctional institutions should provide varying accommodations in accord with the amount of responsibility permissible to the prisoner.

(3) A board of probation and parole, entirely free from politics, and composed of judges and psychiatrists of the highest caliber obtainable.