

### Chronology of Law Reform Based on Junk Science

States Activities	National Activities	Therapeutic Sciences
1939 New York Mayors Commission on the Sex Offender claims there is no sex offender problem. "The Legislature has declared that sexual intercourse with a girl under 18 is rape in the second degree and shall be a felony. Most offenders guilty of this crime, however, enter a plea to assault in the third degree, a misdemeanor and an entirely different crime. To a greater or lesser extent, the same practice of taking pleas of guilty to an entirely different crime of the grade of misdemeanor is employed in the other six crimes of abduction, carnal abuse, incest, forcible rape, sodomy, and seduction."	1923. The American Bar Association establishes the American Law Institute as its educational arm. In May, 1923, a study of the defects of American criminal law was begun.	1937 Wechsler publishes in the Columbia Law Review, calling for therapeutic treatment for murderers, and the legalization of euthanasia.
March, 1949 New Jersey Commission on the Habitual Sex Offender is organized with Paul Tappan as "formulator", and gratitude is expressed to Kinsey for consultation.	1948 Publication of <i>Sexual Behavior in the Human Male</i> The Female volume will follow in 1953.	1939 Yale Law Journal reports on Psychiatry and the Conditioning of Criminal Justice which describes the "infiltration of psychiatry into the administration of the criminal law."
1949 The California Subcommittee on Sex Crimes is created by House Resolution 232. On December 14, 1949, the Subcommittee convenes for an entire day to hear Kinsey give testimony.	1948: Morris Ernst writes a book lauding the Kinsey Reports that, "...virtually every page of the Kinsey Report touches on some section of the legal code."	1939 Minnesota's psychopath law becomes the first to stand constitutional scrutiny.
1951 The Illinois Commission on Sex Offenders is organized. Kinsey and Pomeroy attend workgroup to devise the "Framework for Sex Offense Law." The commission declares, "No specific reference to the Kinsey findings is made here since these permeate all present thinking on this subject." <sup>1</sup>	May 8, 1949: Kinsey speaks at a Columbia University Forum on Crime Prevention, saying sex offense laws must be changed.	1949. Benjamin Karpman publishes in the Journal of Criminal Law and Criminology, "Criminality is a disease and criminals can be cured." Karpman will be the premiere psychiatric authority quoted in the ALI MPC sex offense law. (Draft 4, 1955).

<sup>1</sup> Report of the Illinois Commission on Sex Offenders, March 15, 1953, p. 9. The report identifies Alfred C. Kinsey and W. B. Pomeroy as members of the workgroup addressing "Framework for Sex Offender Laws."

	Jerome Hall, Law Professor at Indiana University published articles calling for Criminal Law Reform in Journal of Legal Education, 1951; Pennsylvania Law Review, 1952; Iowa Law Review, 1953; Nebraska Law Review, 1954	Feb. 1950. Group for the Advancement of Psychiatry (GAP) issues statement that "we should go beyond the symptomatic illegal act itself and assess the total personality ...the identification of the psychiatrically deviated sex offender..are functions of which the responsibility rests largely on the psychiatric expert. They are not matters best determined singly by the judge or by the jury."
1964: Illinois is the first state to adopt the Model Penal Code in full.	1952 Wechsler publishes the call for a Model Penal Code in the Harvard Law Review  Wechsler condemns the judge and jury system: "It is widely urged that the responsibility for the determination of the treatment of offenders should not, in any case, be vested in the courts; that judges have no special expertise or insight in this area that warrants giving them decisive voice; and that they should be superseded by a dispositions board that might include the judge but would draw personnel of equal weight from social work, psychiatry, penology and education." <sup>2</sup>	January 1951, GAP announces "education system is ready now to include programs for the promotion of healthy emotional development as part of the regular curriculum and to accept further responsibilities for the preparation of its students for adaptation to the problems of stressful life... Preventive psychiatry has as one of its chief goals the prevention of mental and emotional illness by the use of techniques which influence large groups.
1965 Illinois Second commission on Sex Offenders states, "instruction in family life, venereal disease, and sex education is believed by this Commission to be the most fundamental step	1957 Wolfenden Report, aided during Kinsey's visits to England, revolutionized English law on homosexuality and obscenity.	Jan. 51 GAP--Sex is announced as essential to happiness: "four basic human drives: adventure, security, recognition, and sex, and that

<sup>2</sup> Wechsler, H. 1952. Harvard Law Review. Vol. 65, p. 1128.

in crime prevention which Illinois can make.”	Hooker Report	these drives and their derivatives, if constructive outlets are provided, lead to happiness and mental health, and without constructive outlets, lead to unhappiness.” (p. 4)
1968 The Kansas Reporter, Professor Paul Wilson explains that the Revision Committee recommended the adoption of the Model Penal Code’s test “for reconciling the traditional concept of moral and legal accountability with <i>contemporary scientific approaches to mental illness and deficiency....essentially a problem for the scientist</i> , to be reflected by the testimony of the expert witness, weighed and evaluated by the court and jury in light of common sense.” <sup>3</sup>	1960 Morris Ploscowe conducts a Sex Offenses Symposium at Duke University, published in Law and Contemporary Problems.	May, 1954: GAP states, “there is agreement that some part of the determination of [criminal] responsibility should be subjected to the expert opinion of the psychiatrist as witness... Today, individual behavior is no longer judged in terms of accountability to a divinity, but rather in the light of biological and cultural forces.”
1973: Men once deemed capable of moral self-government are now victims of irresistible seduction by children as well as women. For example, the Missouri Symposium describes the 12 year old as the provocateur: “Sexual intercourse with incapacitated persons and those 12 or 13 years of age should not carry as severe a penalty [as forcible acts and those against children under 12], especially where mistake as to age is no defense and the victim may have not only consented but deliberately solicited the sexual act.” <sup>4</sup>	1963 Louis B. Schwartz writes in Columbia Law Review describes the Model Penal Code sex offenses law in war terms such as “this kind of beach-head has been established in the hostile country of traditional faith,” and “individual visionaries who are willing to pay the personal cost to challenge the old moral order.”	1955 Guttmacher, head of GAP, corresponds with Wechler to develop ALI/MPC definition of criminal irresponsibility. Published correspondence in the 1955 draft of Model Penal Code distributed to the states.
1983 New Jersey reports a change in the definition of rape. Professor Charles Nemeth writes in the New Jersey Bar Association’s Journal,	1963 Morris Ploscowe reports on the Hague Congress on Sexual and Family Crimes, held at the Rockefeller owned Villa in Bellagio, Italy. He asks, “How far can the law go in interfering	1969: The chief psychiatric advisor for the Model Penal Code, Manfred Guttmacher, is quoted in the Georgia Law Review to prove everyone really

<sup>3</sup> Wilson, P. E. 1968. New Bottles for Old Wine: Criminal Law Revision in Kansas. Kansas Law Review, Vol. 16, pp. 592-593.

<sup>4</sup> Richardson, O. 1973. Sexual offenses under the proposed Missouri Criminal Code. Missouri Law Review, 38(3), p. 397.

<p>“Translating reform ideology into practical reality is no easy task. Even more taxing is attempting to change public perceptions and attitudes on a controversial topic such as rape law and legislation. <i>No other area of law is as dynamic and has been as successful in changing public and legal perceptions as the law of rape.</i> With few exceptions, all states have revised, reformulated and redefined rape in the last 20 years.”<sup>5</sup> (emphasis added)</p>	<p>with an individual’s freedom to act in a sphere which is vital to the human being?”</p> <p>1963 Herbert Packer, Professor of Law at Stanford publishes laudatory article on the MPC and beyond in Columbia Law Review, stating “fidelity to principle is the solid base on which the code is built.”</p>	<p>wants to be sexually deviant: “Philosophically a sex offense is an act which offends against the sex mores of the society in which the individual lives. And, it offends chiefly because it generates anxiety among the members of that society. Moreover, prohibited acts generate the greatest anxiety in those individuals who themselves have strong unconscious desires to commit similar or related acts and who have suppressed or repressed them.”</p>
<p>States adopt MPC based law revision; MN 1967; NY 1967; GA 1969; KA 1970; NJ 1971; OR 1956; MD 1970; MA 1972; CN 1971; CO 1972; ID 1972; KY 1974; MS 1978; MO 1978; MI 1979, etc.</p>	<p>1964 The Sex Information and Education Council of the United States (SIECUS) is established as the educational arm of the Kinsey Institute.</p>	
	<p>1965 Ralph Slovenko publishes <i>Sexual Behavior and the Law</i>, Slovenko announces in the <i>Vanderbilt Law Review</i> that four or five year olds are provocateurs: “<i>Even at the age of four or five, this seductiveness may be so powerful as to overwhelm the adult</i> into committing the offense.” (vol 15, 1962, p. 809)</p>	
	<p>1998: The Indiana University Press republished the Kinsey reports with no changes, claiming: ‘The Kinsey Reports,’ as this book was popularly designated fifty years ago, represents a milestone on the path toward a scientific understanding of human sexual behavior.<sup>6</sup></p>	

<sup>5</sup> Nemeth, C. P. How New Jersey Prosecutors View the New Sexual Offense Statutes. New Jersey Law Journal, May 5, 1983, p. 1.

<sup>6</sup> Kinsey, A. C., Pomeroy, W. B., & Martin, C. E. 1998. Sexual Behavior in the Human Male. Indiana University Press. Reprint of the 1948 edition. Quote from dust jacket flap.