

California Cripples Women's Children's and Family Rights

**"Science Based" Law Reform 1923 - 2000
The Kinsey Reports: 1948 to Today**

A Work in Progress

**J.A. REISMAN, PH.D.
THE INSTITUTE FOR MEDIA EDUCATION
&**

**L.L. Jeffrey, Ed.d
RSVP America**

2002
www.drjudithreisman.org

California Cripples Women's, Children's & Family Rights A Preliminary Historical Overview of The Penal Code

All *obstructions to the execution of the laws*...serve...to put, in the place of the delegated will of the nation the will of a...*small but artful and enterprising minority of the community*...rather than the organ of consistent and wholesome plan as digested by common counsels and modified by mutual interests.

[I]n the course of time and things...*cunning, ambitious, and unprincipled men* will be enabled to *subvert the power of the people and to usurp for themselves the reins of government*, destroying afterwards the very engines which have lifted them to unjust dominion.

[R]esist with care the spirit of innovation...which will...undermine what cannot be directly overthrown. In all the changes to which you may be invited, remember that time and habit are at least as necessary to fix the true character of governments ... [C]hanges [based upon] mere hypothesis and opinion, expose to [society] perpetual change, from the endless variety of *hypothesis and opinion*...¹

Excerpt from George Washington's "Farewell Address," September 17, 1796



Kinsey: Crimes & Consequences (JA Reisman) provides an overview of the development of the American Law Institute's (ALI) Model Penal Code (MPC) at the national level. In January 2001, under the direction of Dr. L. Jeffrey, *RSVP America*, began to examine in greater depth the history of the ALI Model Penal Code (hereafter cited as the ALI/MPC) and its impact on state penal reform. The evidence of Kinsey's role in deconstructing the rights of women, children and the family in state laws began to dramatically emerge.

The Case for Abolishing
the Age of Consent Laws

North American Man/Boy Love Association

Kinsey, who died in 1956, is praised by the North American Man-Boy Love Association, stating all pedophiles and boy-lovers should "know Kinsey's work and hold it dear...[for] **implicit in Kinsey is the struggle we fight today.**"² He is also praised by the homosexual movement as the father of gay rights.

Reisman and Jeffrey confirm Kinsey's work as the basis for weakened laws and cultural norms. As the inventor of the fraudulent data claiming that 10% to 37% of males engaged in homosexual sodomy to orgasm for years of their lives, the Kinsey data were used to legitimize homosexuality to society and in the classroom, thus the legalization of "gay marriage." Kinsey's data are also documented as directly associated with the sharp rise in sex crimes against children, noting that 58,200 abductions by non-family members were recorded by the FBI in 1999, most of which involved sexual victimization.

The research question was posed over 200 years ago by President George Washington. That is, did "a...small but artful and enterprising minority of the [legal] community" usurp "for

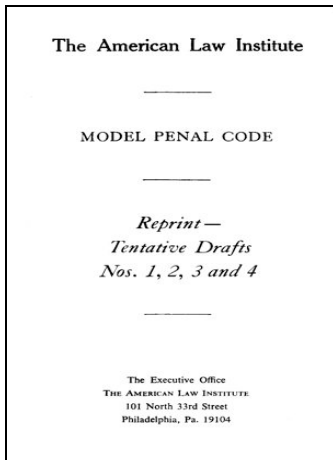
¹ George Washington's Farewell Address, September 17, 1796, republished by Applewood Books, Bedford, Massachusetts, circa 1900, pp. 17-18.

² Daniel Tsang, Ed., *The Age Taboo*, "The Case For Abolishing Age of Consent Laws," NAMBLA, Alyson Publications, Boston, 1981, p. 92.

Deconstructing Women's, Children's & Family Rights

themselves the reins of government” by “obstructions to the execution of the laws”? Claiming the need for “innovation” and simple “restatement” of the laws, did a group of “cunning, ambitious, and unprincipled men” establish the ALI/MPC as a means of subverting the nation’s criminal and moral laws in order to undemocratically implant their own “hypotheses and opinion” as the law of the land?

The particular focus of RSVP is, at this time, the way in which the ALI/MPC reshaped the legal status of American women and children. The RSVP investigation has examined state laws, reform commission reports, bar review journals, and other primary source documents.



California’s history in relation to the ALI Model Penal Code is unique. A full decade was spent rewriting the California penal code to conform to the ALI model. Yet, the final ALI/MPC based product was rejected by the California State Legislature both in 1968 and again in 1973.

At the time of this writing it appears that in 1978 the ALI/MPC recommendations became one of the first official acts of Jerry Brown, the then newly elected California Governor.

Credit for California’s revolutionary penal change goes to a group of law professors headed by University of California, Berkeley law and criminology professor, Arthur Sherry. According to UCLA researcher W.L. Gordon, the California group were “law professors from the prestigious law schools who had either participated in the drafting of the MPC, or shared its outlook.”³ Sherry claims that the California Governor and the legislature initiated the push for legal change. What he doesn’t mention is that the public sought tougher, not lighter penalties for crimes, especially sexual crimes against children.

Crime and crime control were important political issues receiving extensive public exposure, and the recently published Proposed Official Draft of the Model Penal Code was beginning to be recognized as a useful example of what could be accomplished by a comprehensive study of the whole body of the substantive criminal law.⁴

Sanford J. Fox, the sole draftsman for the New Hampshire Criminal Code cites other influences on California’s embrace of the ALI/MPC.

There is undoubtedly an element of ‘me-too-ism’ involved as well. The Model Penal Code and the enactment of new codes by several states during the recent past have exerted a strong influence to reevaluate a body of law which many have known to require revision...Of central historical importance is the background of the Model Penal Code. Several documents which demonstrate major ideational roots of the Code...make it clear that the thinking at Columbia and Chicago in the 1930’s played a decisive historical role.”⁵

ACLU founder and Kinsey attorney Morris Ernst revealed the political strategy was to quietly insert the Kinsey data to draft penal changes from New York to California. Writing in “Law” in the *Saturday Review*, (March 13, 1948) Ernst explains;

³ Gordon, W. L. 1981. *Political, Ideological, and Institutional Aspects of Comprehensive Criminal Law Reform in California: 1960-1975*. Pro Quest Dissertation Abstracts #AAT 8113851.

⁴ Sherry, A. H. 1970. Criminal Law Revision in California. *Journal of Law Reform*, vol. 4 (3), 429-442.

⁵ Fox, S. J. 1970. Reflection on the Law Reforming Process. *Journal of Law Reform*, vol. 4(3), p. 444.

Rockefeller, Indiana University, and the Kinsey staff have made an outstanding *contribution* to...law which touches on marriage, the home, and personal behavior patterns related to sexual drives or suppression. The *Kinsey* contribution must eventually affect all our sexual legal folkways.... Are we ready for a national pattern?...*Kinsey and his staff are wise enough not to hint, even, at any answers* ...[and use] no adjectives. Not a single passing *comment should be made on the effect of the data on present laws*, or the effect of the existence of the present laws on the data. Others must take on that chore. It's time now for a staff of lawyers, with zeal and wisdom equal to the Kinsey group, to study the material...the Kinsey Research Magnificent."⁶

“A Staff of Lawyers:” The Revision Committee

In 1963, the “staff of lawyers” entitled, the California Joint Legislative Committee for the Revision of the Penal Code was organized, including 10 men, divided equally from both houses of the legislature. The revision staff was made up of “a staff of lawyers, with zeal and wisdom” law school professors from UC Berkeley, University of Southern California and Stanford University. In addition there was an advisory board of two district attorneys, two criminal defense attorneys, two judges, Professor Arthur Sherry, and a representative from the Attorney General's office.

As was the case with the national ALI/MPC draft, no active prosecutors participated in either the California revision staff or the advisory board. Each member of the staff was assigned individual research and drafting responsibilities. When their product of 18 months work was brought to the California board, the board's response was unfavorable. Sherry, indignant for himself and his staff, wrote:

[I]ts product at first inspection struck most of the members of the Board, unfamiliar with the Model Penal Code or any other contemporary criminal law revision as a strange and baffling departure from all of the familiar landmarks of conventional law. The style of the Model Penal Code, its rigorously logical order and its general abandonment of common law terminology does pose difficulties for anyone whose entire educational and professional experience has been circumscribed by the eighteenth century common law concepts still preserved in the criminal law of California. The staff, of course, was greatly influenced by the Model Penal Code.⁷

In 1969, the “staff of lawyers” were dismissed, and a former Deputy Attorney General was appointed to redirect the reform process. The *UCLA Law Review* devoted its April 1972 issue to a “Student Symposium on the Proposed California Criminal Code.” They described the current California Penal Code, which was based on an 1872 enactment, as “outdated, unmanageably lengthy, and internally inconsistent.”⁸

According to Professor Sherry, "it seemed apparent to the staff that the Model Penal Code provided the most useful and efficient base from which to attack this disorderly body of law." (pp. 434-435). Their “efficient” draft on sex offenses "assumed that in almost all offenses, a maximum term of five years would be adequate and would best serve the goals of modern correctional practice" (p. 437).

⁶ p 19.

⁷ Sherry, *supra*, p. 433.

⁸ Student Symposium on the Proposed California Criminal Code. *UCLA Law Review*, vol. 19(4), p.525.

To do this, *sex felonies would be demoted to lesser crimes and/or penalties*, while they proposed stripping the law of most if not all of its misdemeanor criminal sanctions, substituting the non-criminal offense of "infraction" punishable by fine, or some other non-custodial restraint. In fact, Kinsey's friend, psychiatrist Karl Bowman, reported that by late 1950 the 1955 MPC view of sex offenders had been quietly gaining converts in California.

Bowman claimed that the average period of confinement for "child molesting, incest, exhibitionism, window peeping, sadism and certain homosexual crimes" was "about eighteen months." Additional staff could reduce that "to fourteen months" opined an optimistic California Mental Health Progress Report 4, in 1963. Sex crimes of sadism, incest and child abuse were pronounced trivial in the larger scheme of things.⁹

Since other states had relied on the Kinsey-based ALI/MPC to lighten sex offense penalties beginning in 1956, similar changes were acceptable to a majority of California legislators. In fact, the undoing of the California committee resulted from their drug regulation proposals. (p. 438). They proposed supplying marijuana to a person under 18, cultivation of and possession of over a pound of marijuana be classed as a misdemeanor and over 10 pounds a 3rd degree felony. (p. 439).

Public reaction was strong-The California District Attorney's Association resolutely opposed the revision project, and made a strong commitment to the defense of the current Penal Code. The culpability provisions were ridiculed by prosecutors who "purported not to be able to understand them." (p. 441). Replacing the *M'Naghten Rule* with a definition drawn from the Model Penal Code was attacked because it would "*turn criminal trials over to the psychiatrists.*" (p. 441) The sentencing proposals were rejected because their lower maximum terms were described as a threat to the public safety. (p. 441)

The second MPC reform proposal was also rejected by the Legislature in 1973.

Post 1973 Acceptance of the New Code

Although the California legislature did not accept law reforms based on the ALI/MPC at that time, they did so, *apparently in 1974*, and all California laws now reflect the Kinsey Reports assertion that children are sexual from birth, hence entitled as juveniles to sexual information, education and training in sexual freedom. Psychological opinion and therapy, although never proven to be a scientific discipline, have been elevated to the critical determinant in assessing the child predator, effectively overturning the power of the jury and judge with superior sexperts.

The two terms of Jerry Brown as governor of California may shed light on the leniency of California law towards child predators. Pat Brown, Jerry Brown's father was governor of California during Kinsey's tenure, and was visited by and advised by Alfred Kinsey on the need to eliminate or lighten sex law penalties on many occasions.

Indeed, Kinsey's extensive "expert" testimony to the Subcommittee on Sex Crimes of the California General Assembly in 1949 may be seen as a turning point in California's treatment of sex offenders. Kinsey lied to the legislators, saying his research found children unharmed by sexual abuse. He then called for widespread parole of all sex offenders and lenient penalties at a time when the public was

⁹ Karl Bowman, "Sexual Psychopath Laws, in Ralph Slovenko, *Sexual Behavior and the Law*, Springfield, IL, Charles C. Thomas, 1965, p. 762.

demanding that sex offenders be permanently removed from society. Kinsey's influence can be seen in that while the legislature rejected the MPC proposed by the committee, they accepted the liberalization of sex laws. The legislative rejection may be laid at the feet of the Code's call for a wide-open use of drugs.

By 1970, the sole control for the sex offender's future was in the hands of the California Adult Authority, an administrative agency composed of eight members *chosen by the governor* and approved by the State Senate. According to writer, Louis Barnett, Chairman of the National Foundation to Fight Political Corruption, Governor Brown was very fond of appointing controversial figures whose connections to pornography, organized crime, and disregard for the law was flagrant.¹⁰

Were probation denied, the judge could only sentence the offender to the term prescribed by law. Once this was done, the governor-appointed Adult Authority then had discretion to determine the exact length of imprisonment and parole within this term.¹¹

As noted, the California District Attorney's Association objected to the proposed reforms, noting that "...a definition drawn from the Model Penal Code would 'turn criminal trials over to the psychiatrists.'"¹² The ALI/MPC chief author, Herbert Wechsler, scorned the American system of governance requiring a trial by jury. In his call for law reform in the *Harvard Law Review*, Wechsler writes,

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.¹³

Wechsler's bias has been proven unsound by multiple studies reported at a conference held in San Diego in April, 1999. Professor of Law, Neil Vidmar, of Duke University reported on a literature review and his own empirical study with two colleagues that the jury system over the last 25 years has remained effective. He referred to Alan Dershowitz's book, *The Abuse Excuse*, as perpetuating a false "belief based on no systematic evidence whatsoever" regarding jury attitudes towards acquittal. Dershowitz reports an "overwhelming view about the jury and its competence and its diligence was supported by the trial judges."¹⁴

There was high agreement between trial judges and jury verdicts, juries are able to understand and act on complex trial evidence, and juries are adept at critical assessment of experts and their testimony. Vidmar concludes that there is substantial support for the jury system from a systematic examination of current research.¹⁵

¹⁰ Barnett, L. W., Feliz, J. M., & Scholl, D. 1982. *Jerry Brown's Judicial Legacy*. Glendale, CA: The National Foundation to Fight Political Corruption, Inc.

¹¹ Student Symposium, *supra.*, p. 530, fn 28.

¹² Sherry, *supra.*, p. 441.

¹³ Wechsler, H. 1952. *Harvard Law Review*. Vol. 65, p. 1128.

¹⁴ Vidmar, N. 1999. *Jury's Comprehension of Scientific Evidence: A Jury of Peers? From the Proceedings of the National Conference on Science and the Law*, April 15-16, 1999, pp. 183-188.

¹⁵ *Ibid.*

California Law 2001

After careful examination of the current California Penal Code, in 2001 it appears that, as in most other post-common law states, *no fixed law provides a clear felony offense for sex with a child* unless it is proven that the act is against the child's will by means of force and violence. Massive confusion exists in the degrees and sub degrees which must be labeled by the police and the victim.

Richard H, Kuh, a working New York prosecutor,¹⁶ complimented the authors of the MPC on many aids the MPC provided to prosecutors, However, he complained about the heavily weighted academic and social science advisors as well as the missing working prosecutors. Kuh was especially concerned about the legal confusion the ALI/MPC was creating in all our states. He worried:

If the [ALI/MPC] draftsmen wish to force trial judges to stop and puzzle over abstruse wording, that discipline can do no harm. But...[this is] linguistic embroidery to which lay jurors would inevitably be exposed...awkward phrases and shrouded concepts bother me; for instructions in the law—jury charges—are delivered to jurors orally, and may go on for hours. [And] if a verdict is to be reached, the jurors must all end up as of one mind, convinced beyond a reasonable doubt. Nor can the Code's protagonists—if they are, at this time, to be realists—respond, “these definitions are not for the jury; the judge may simplify them, using his own words when he charges.” Trial judges do not like to be reversed, and the safe course for them is to charge the law precisely as the legislature has handed it down.¹⁷

Kuh says the ALI/MPC models fuse further with “mental gymnastics” such as

...a twenty-one page discussion...[which] contains so many conditions modifying other provisions, which in turn have modified still others, that limitations of space make adequate description impossible.¹⁸

These “conditions modifying other provisions, which in turn have modified still others” are seen in bold relief in the California child abuse statutes. A child of *any age* who allegedly willingly submits to “unlawful sexual intercourse” appears to be only guaranteed a misdemeanor penalty should the aggressor be found guilty. (See attached chart, California Law: 2001).

This puts the smallest children (up to age 13) in the position of having to *prove* force if they are to make the offense a felony punishable under section 269. If the child cannot prove force, a common problem in child sexual abuse, or her tenderness of years create such intimidation in those circumstances that s/he is unable to establish the facts of the trauma, her/his rape can be penalized either as a misdemeanor or a felony. Prior to 1950 the laws were fixed favoring explicit protection for children.

Provocative teens commonly called “jail bait,” and men genuinely feared that ravishing a child, with or without his/her “consent” would result in significant imprisonment—Hence fewer men and boys engaged in sex with children. Today, it may be said that on the evidence women and children boys and

¹⁶ Richard H, Kuh, ¹⁶ *Columbia Law Review* Vol LXIII, New York, “A Prosecutor Considers The Model Penal Code, 1963, pp. 622.

¹⁷

¹⁸

girls suffer under the ALI/MPC definitions of sexual abuse. However, it appears that adult women tend to fare better under the “lightened” rape laws than do children. (Indeed, since 1958, convictions for “statutory rape” of children are no longer even counted in the FBI rape statistics.)¹⁹

While 261 (2), 289 and 288 (3) punish offenders with “3, 6, or 8 years” for forcible rape and rape with an object, etc., (hence a felony) only a) children 0-13 who are raped by men over 23 years old can see their rapists receive 15 years to life. Even here the sentence may be “suspended” with a “report from a psychiatrist or psychologist or treatment program (288.1).

“Awkward phrases and shrouded concepts “ abound in the California statutes on rape (statutory rape is no longer a *category* of offense). Continuous sexual abuse, defined as three or more acts of substantial sexual contact including with a foreign object or by oral copulation with a child under 14 in not less than three months, is a felony (288.5).

The pattern established by the ALI/MPC is reflected in current California law-- lightening penalties for sex offenses is enabled through redefinition and reclassification of the crime and the criminal. What was a felony under common law is devalued to a misdemeanor and the level of injury is calculated and commonly must be proven by massive battery by the victim.

The current California law also reflects the concept of rape as having conditions that modify other provisions, which in turn are modified by still other provisions. The defense of rape as peer sex play, first articulated by Kinsey was introduced into law by the ALI/MPC. An age differential between the aggressor and his victim determines the severity of the crime and the resultant penalty. In the case of aggravated sexual assault (a felony), the aggressor must be ten years older than his victim. This means that when a 19 year old rapes or sodomies an 11 year old child, it would be not be aggravated sexual assault but the lesser crime of unlawful sexual intercourse, either a misdemeanor or a felony (261.5(D).

In 1980, when the UCLA Law Review argues that the concept of “statutory rape” has an inherent gender bias, and is therefore unconstitutional, the Kinsey Institute’s tome on sex offenders is the premiere citation for the argument.²⁰ Promoting the Kinsey Report’s position that children need and want sex, Eidson writes that youngsters between the ages of 12 and 15 are often willing, if not seductive. Protection should be achieved without punishing many blameless men. Based on factual statistics of rape, it is a strange argument indeed that protecting women is a “sexist assumption.”²¹

Layers of protection for the predator—not the victim—are firmly enmeshed in California law. The plea bargaining process often provides the offender the option of pleading guilty to a lesser offense and avoiding prosecution for his felonious behavior.

A “Findlaw” search of the California penal codes for “pornography” locates only two references to children and pornography, neither of which appear to provide proper protection to children from pornography. Section 666. 8 states “Showing child pornography to a minor prior to or during the commission or attempted commission of any lewd or lascivious act with the minor (subd. (a), Sec. 667.15, Pen. C.)” are illegal. However, children are commonly induced into a “consensual” rape via

¹⁹ Judith A. Reisman, *How The FBI & DOJ Minimize Child Sex Abuse Reporting*, 67% Report Victims Are Children, 64% Of Forcible Sodomy Victims Are Boys Under 12, 5,171% Abuse Increase 1976-1999. The Institute for Media Education, Crestwood, KY, January 2001, pp. 1-25.

²⁰ Eidson, R. 1980. The Constitutionality of Statutory Rape Laws. *UCLA Law Review*, vol. 27, p. 757, fn3.

²¹ *Id.*, p. 761.

“adult” not “child” pornography, suggesting a “misdemeanor” while showing children pornography without engaging in criminal sexual acts would be legal under this law.²²

Seducing a child under 16 into prostitution can result in three, six, or eight years, incarceration with no lower age (10 years, 5 years) stipulated (266h: b). Law enforcement data have long established the fact that prostitution of children and their use in pornography go hand in hand. Both are illegal and the latter can follow a child forever into her or his adulthood, despite his or her recovery from prostitution. Perhaps because California is the epicenter of the pornography industry, the laws addressing children in association with “pornography” appear vague at best.

At the time of this writing it appears that California does not have child pornography statutes designed to protect children from this form of exploitation. On a federal level we find: **Section 2252A. Certain activities relating to material constituting or containing child pornography**

- a) Mailing or distributing child pornography shall be fined and imprisoned for not less than 5 years nor more than 30 years.
- b) Or is fined or imprisoned not more than 5 years, or both, but, if the felon was guilty prior of child sexual abuse activities it is 2 years to 10 years
- c) person was an adult at the time the material was produced; and (3) the defendant did not advertise, promote, present, describe, or distribute the material in such a manner as to convey the impression that it is or contains a visual depiction of a minor engaging in sexually explicit conduct. (d) Affirmative Defense. - It shall be an affirmative defense to a charge of violating subsection (a)(5) that the defendant - (1) possessed less than three images of child pornography; and (2) promptly and in good faith, and without retaining or allowing any person, other than a law enforcement agency, to access any image or copy thereof - (A) took reasonable steps to destroy each such image; or (B) reported the matter to a law enforcement agency and afforded that agency access to each such image.

Section 1470. Transfer of obscene material to minors

Whoever, using the mail or any facility or means of interstate or foreign commerce, knowingly transfers obscene matter to another individual who has not attained the age of 16 years, knowing that such other individual has not attained the age of 16 years, or attempts to do so, shall be fined under this title, imprisoned not more than 10 years, or both.

Therapy Replaces Penalization

Therapy for predators has replaced long term or permanent incarceration, as reflected in section 1000.30, where taxpayers fund “treatment to child sexual abuse perpetrators.

1000.30. The Office of Criminal Justice Planning shall...establish a pilot project for a period of two years...to provide treatment to child sexual abuse perpetrators, including intrafamilial and pedophilic abusers, and including abusers who are incarcerated, as well as those who are not. (c)...Nothing in this section prohibits the use by district attorneys of counseling and other treatment programs as a diversion from prosecution.

²² Further research on 186. The "California Control of Profits of Organized Crime Act," 186.2. “Child pornography or exploitation, as defined in subdivision (b) of Section 311.2, or Section 311.3 or 311.4” is currently under way.

Deconstructing Women's, Children's & Family Rights

In pilot counties, diversion services shall be integrated with the services provided under this chapter.

Taxpayers are further burdened with the coordination of services to child predators from “county mental health, welfare department, district attorney, juvenile court, superior court, municipal court, probation department, and private child welfare service agencies participating in and coordinating case referral, case management, and service delivery to the ‘target population.’” This section (1000.30) suggests that counseling and treatment programs are used as a diversion from prosecution, at the district attorney’s discretion.

The provisions of Criminal Code Reform in the states have left a clear trail of skyrocketing violent crime, illegitimacy and juvenile delinquency. By its own admission, the California State Legislature has acknowledged that current programs to address sex crime are ineffective. Penal Code section 13885 begins,

The Legislature hereby finds that a substantial and disproportionate amount of sexual offenses are committed against the people of California by a relatively small number of multiple and repeat sex offenders.

Section 999i adds,

The Legislature hereby finds that repeat sexual offenders present a clear and present danger to the mental and physical well-being of the citizens of the State of California, especially of its children.

The Criminal Justice System is very careful not to infringe on the offenders freedom, but is very willing to establish complex and expensive programs at the tax payers expense, and the multiple victims’ violations, to “target and monitor chronic repeat violent sex offenders before the commission of additional sexual offenses.” [13885.1(b)]

Louise Viets Frisbie reported on the “Atascadero [California] study of 1,921 treated “sexual psychopath” patients.” Most of the sex offenders served under two or three years in prison, receiving psychological counseling and treatment throughout their tenure. Frisbie seemed pleased that most of the paroled sex felons were not caught and returned to prison. However, by the end of the 5-year study, 34.5%, of paroled molesters of boys, 18.2%, of paroled molesters of girls and 46.8%. “voyeurs, transvestites and lewd persons” had been convicted of additional sexual offenses.

Moreover, while Frisbie argued that sex offenders did not increase the severity of their crimes, the data did not support that claim. One reason, among many, was that 11% of exhibitionists, the least “dangerous” of all offenders, “shifted to a more serious offense (bodily contact)” Frisbie does not reveal the nature of the contact, rape, molestation, adult or child victim(s)?²³ And the report again frames these offenders not as felons or criminals but as the therapeutic model requires, as “patients” of the state.

²³ Louise Viets Frisbie, “Treated Sex Offenders Who Reverted to Sexually Deviant Behavior” in *Federal Probation*, June 1965, pp. 55-57.

Kinsey Perjures Himself before the California Legislative Assembly Subcommittee on Sex Crimes in 1949

In 1981, President Ronald Reagan, California's former Governor, wrote that the swift and severe punishment once shown to predators had been completely removed showing empathy and favoritism to criminal predators. In his Preface to California's 1981 "Crime Victims Handbook," Reagan charged that the cost of violence in our society can be traced to a criminals' rights mentality promoted by the criminal justice system since the 1950s.

For the past thirty years justice has been unreasonably tilted in favor of criminals and against their innocent victims. This tragic era can fairly be described as a period when victims were forgotten and crimes were ignored.²⁴

What had happened to California, and the nation, was that the passage of tough "sexual psychopath" laws during the 1930s-1940s had been wholly derailed by those pressing for a Kinseyan Model Penal Code, officially released in 1955. Several sex-murders of children had caused public outrage and demands for eliminating any paroles or early release time for sex offenders. The shift to criminals rights can be traced via the Kinsey Reports but California offers an example via excerpts from Kinsey's testimony before the California Legislative Assembly Subcommittee on Sex Crimes in 1949, a year after the release of his *Male* volume:

DR. KINSEY: For the last 11 years we have had a research project, as you know, underway at the university on human sexual behavior [providing] a picture typical in the population as a whole as well as a special study of the persons who have been involved with the law as sex offenders. Indiana University supports the research, by the medical division of The Rockefeller Foundation, and by the medical division of the National Research Council at Washington we find that 95 percent of the [male] population has in actuality engaged in sexual activities, which are contrary to the law.

MR. BECK: What are your recommendations at the present time?

DR. KINSEY: by lessening the penalty—still arresting, still convicting, but by lessening the penalty....

MR. BECK: You mean by granting parole?

DR. KINSEY: They [New York] grant parole immediately in 80 percent of ...sex cases....50 percent of the older men, are incapable of sexual performance anyway.

MR. BECK: I think that's the answer.²⁵

Since 86% to 87% of the Kinsey Report males were homosexuals other sexually aberrant groups, prisoners or boys sexually violated for his data, Kinsey perjured himself by testifying to the California committee that the Kinsey Reports represented, "a picture typical in the population as a whole."²⁶ The impotent elder sex offender was also false, for Kinsey knew his favorite subject was a "sixty-three-year old, quiet, soft-spoken...fellow" who was an active child rapist who bragged that he raped 800 infants and children, kin and non kin, many for the Kinsey Male report.²⁷ This Kinsey did *not* tell the Assembly Interim Committee on Judicial System and Judicial Process of the California Legislature — during an era when the future U.S. Supreme Court Justice, Earl Warren, was serving as Governor of California.

²⁴ President Reagan, R. 1981. Preface to California Department of Justice, *Crime Victims Handbook*. U. S. Dept. of Justice.

²⁵ Preliminary Report of *The Subcommittee on Sex Crimes of the Assembly Interim Committee on Judicial System and Judicial Process*, California Legislative Assembly, 1949, (Created by HR 232 and HR 43), pp. 103, 105, 117.

²⁶ Judith Reisman, *Kinsey, Crimes & Consequences*, IME, Crestwood, KY, (1998, 2000).

²⁷ Wardell Pomeroy, *Dr. Kinsey and the Institute for Sex Research*, Harper & Row, New York, 1972, p. 122.

Kinsey refers to The New York Mayor's Committee for the Study of Sex Offenses, (1939) and the subsequent New York sex offender program more than a dozen times in just 18 pages of his testimony. The New York Mayor's study--in which ALI author and Kinsey colleague Morris Ploscowe was named as "Consultant," resulted in probation for 80% of sex offenders. Kinsey claims that although no laws were changed, *enforcement* changed (was reduced) dramatically, and that everyone was pleased, the legislature, law enforcement and the public at large. He claims the New York City "experiment" (his word) "has been going on 5 or six years. New York State has had a full time commission for 1 1/2 years." This he says, "I know, because they came immediately to me."²⁸

Of the Kinsey influence on radicalizing sex laws state by state, co-author Wardell Pomeroy wrote::

Kinsey...carried on an elaborate study of the procedures involved in the handling of sex offenders ... As a result of this work...Kinsey could point to some concrete results in state legislatures. *In California, for example, the lawmakers appropriated \$75,000 per year for a study of sex offenders, supplementing his own work, and placed it under the direction of Kinsey's friend Dr. Karl Bowman.... [whose] research program made abundant use of our material....* Kinsey himself met with the California legislature's committee on sex laws, and he prepared special documentary material for the consideration of several other committees. Governor Pat Brown, whom he came to know well, worked with him closely in developing the state's program. In 1952 Kinsey collaborated with an Illinois State legislative committee which was working on a revision of sex laws in that state. He spent much time in gathering factual data for the committee's use. This action followed a pattern *he had already established with legislative committees and special research groups set by the governments of New Jersey, New York, Delaware, Wyoming and Oregon.*²⁹

The Kinsey colleagues stressed the harmlessness of the convicted sex offender, the allegedly rare recidivism by the rapist and hence the need to view these acts as transitory in the offender's life. *The New York Times* reported Kinsey's keynote speech to *The American Correction Association, September 28, 1955*, claiming the sex offender "...was *least likely* to repeat his crime after release from prison." The famous psychiatrist and MPC consultant, Manfred Guttmacher echoed Ploscowe and Kinsey saying,

[I]t is [wrongly] believed that sex offenders ...tend to be recidivists... among sex offenders there is little tendency toward repetitiveness ... Paedophilia is one of the most frequent types of sex offense but recidivism is low."³⁰

Now, while Kinsey told the California legislators in 1949 that recidivism was rare among sex offenders, the Report of the Mayor's Committee for the Study of Sex Offenses in 1939, for which "Mr. Morris Ploscowe...throughout the entire study served as Consultant to the Committee,"³¹ reported a 52% recidivism for forcible rape, 43% for incest, 34% for statutory rape, and 42% for sodomy. While Kinsey's data alleged that there was no such thing as "normal" sexual behavior, still, few normal Americans would consider these to be low or acceptable rates of recapture—all within a ten-year window.³² And data addressed further on finds a cure rate for sex offenders as unsupported.

²⁸ Ibid

²⁹ Ibid., Pomeroy, pp. 210-211

³⁰ Guttmacher, p. 288; MPC "Comments" 1955, p. 294.

³¹ The New York Mayor's Committee for the Study of Sex Offenses, 1939, p. 9.

³² Ibid., p. 90.

Deconstructing Women's, Children's & Family Rights

The New York Committee (which Pomeroy claims Kinsey aided in their deliberations) concluded that that "sex [crime] is only a sideline to their major criminal activities," since the rapists' prior arrests (they claim) were often not for sex crime. Hence, the Committee deduces that because "only" 34% of sex offenders reappeared in a police line-up within a decade, this "is convincing proof that sex crime is not habitual behavior with the majority of sex offenders."³³

In any case, this is clear evidence that Ploscowe had knowledge of the high rates of sex criminal recidivism 10 years prior to the ALI/MPC. (As an aside, Kinsey colleague, psychiatrist, Karl Bowman also was a consultant to the New York Committee as well as providing "Kinseyan" testimony to the California committee.)

For in fact, upon release, parolees so commonly repeat and accelerate their sex/hate crimes, that somewhat worthless statutes like "Megan's law" have been introduced across the country to "register" the felons and provide political cover for politicians feeling real public pressure for a failed system. By the year 2000, "Aimiee's Law," named for another of the raped and murdered child victims of paroled child sex offenders, was passed by both houses of Congress, requiring tougher enforcement of sex offender laws. On the evidence, the Kinsey cadre consciously misrepresented sex offender recidivism as benign.

Released murderers, rapists and child molesters are more likely to [reoffend] than the general prison population...Released murderers are 5 times more likely...and rapists 10.5 times more likely ... to subsequently rape."³⁴

As noted, in 1949 Dr. Kinsey testified to the California legislature that he had studied a "scientific" random sample of the nation's men, falsely testifying that children were unharmed by sexual interactions with adults and that it was inhibition and sexual repression which was largely responsible for all sex crimes. Holding himself out as a legal expert on Kinsey's "science," MPC Chief Author, Professor Wechsler, picks up Kinsey's theme:

What rights ought the parolee to have? How can law best contribute to effecting readjustment after release from an institution? The object is to canvass the existing law and practice, articulating legislative issues, analyzing possible solutions and appraising the competing values and considerations which a legislative choice should weigh. To the extent - and the extent is large - that legislative choice ought to be guided or can be assisted by

³³ Ibid., p. 93.

³⁴ Press release from the office of Rep. Matt Salmon (R-Arizona), 2000, based on US Department of Justice Recidivism reports.

knowledge or insight [from] the medical, psychological and social sciences, that knowledge will be marshaled for the purpose by those competent to set it forth.³⁵

Who was “competent to set it forth?” Kinsey urged the new “social science” view that, based on his “massive” studies, the hysteria of parents and law enforcement were more harmful to children than were sex assaults by adults. Therefore, when Kinsey urged California’s legislators to allow felons sexual readjustment “back into society,” his alleged research confirmed that society should lower *its* values and morals to the level of the sex criminals’ mores and values, rather than *vice versa*. “Common sense,” Kinsey told the California committee, was all sex criminals needed — in order to not “offend” society.

The FBI and US Department of Justice data reveal that a small portion of sex criminals are actually apprehended and brought to trial — with only half of the convicted criminals receiving prison sentences. Those that do receive “time,” serve roughly half of their sentence prior to parole. Of those paroled, roughly half are *recorded* as recidivists (breaking parole, or committing new crimes while free.)

In another infamous example of the paroled child sex killer, in 1990, a paroled child sex offender raped and sexually mutilated a 7 year-old-boy in Tacoma, Washington. Another “task force on sexual predators” was formed and this one called for life imprisonment without parole for any violent sexual act against a child.

Prior to his latest atrocity, Shriner had murdered a 15-year-old girl and savagely molested seven other children. Apparently, there are yet other cases in which he beat the rap. Shriner was free on the streets after his earlier crimes despite the authorities’ knowledge of his plans to build a “death van” equipped with shackles and cage for the capture and torture of young children and tools with which to mutilate them. He was well known to the police, who are accustomed to questioning him frequently in connection with attacks on young people. Nevertheless, Shriner lived next door to an elementary school....Shriner was free to attack again because miscarriage of justice has been institutionalized. His series of serious crimes drew minuscule punishments and legal rulings, which gave him the benefit of the doubt, ensured his presence on our streets.³⁶

The Changes In California’s Sex Offense Language

Pages of minutiae, downloaded from the “California Penal Codes” find child and adult sex offenses listed with roughly 29 pages devoted to Treatment of Offenders. The sex offender codes include nearly 200 explicit gradations identifying the penalties for subtle aspects of each crime, much depending upon the age differential between the victim and offender. “Child” appears seldom in reference to penal laws, “minor” being the definition of choice, outside of a generic “child sexual abuse” discussion title.

“Rape” appears seldom, while “statutory rape” is no longer a definition for any California penal laws. In fact, the word “rape” which is swiftly disappearing from many state law books, is found here only in identifying crimes against adult women as in “spousal rape” and “Rape: sexual intercourse against a person’s will by means of force,” etc. Rapes of children are redefined and “softened,” called “sexual misconduct,” sexual liberties, child sexual abuse and the like.

³⁵ Wechsler, *supra*, n. 53 pp.1129-1130.

³⁶ June 14, 1989, *The Washington Times*, F4.

Kinsey's impact on "*Psychiatry*" was addressed by S. Bernard Wottis, M.D., quoted often in the MPC. Says Wottis the Kinsey Reports provided "evidence" of normal sexuality and "infantile sexuality" and that:

[S]exual activity in the male is present from birth to death....the "latent period" is the result of a damper on sex activity imposed by our culture....Kinsey has given us statistical confirmation of this bio-cultural phenomenon.³⁷

Such "statistical confirmation of this bio-cultural phenomenon" may be seen in the de-facto lowering of the age of consent in all our states and in federal law. The penal codes uniformly suggest that children may be treated as sexually liberated women (or men) at age 12, or 13, or 16 or even younger.

President Reagan asked, as many Americans have asked, what transpired over those intervening years to divert the justice system from its responsibility to protect the most vulnerable in society from lawbreakers to that of protecting and coddling predators. This pilot study begins to answer Reagan's query by tracking a federal and state judicial system overwhelmingly influenced by the junk science contained in *Sexual Behavior in the Human Male* published in 1948 and *Sexual Behavior in the Human Female* published in 1953.

Sexual Beings From Birth The "Four Or Five" Year Old Seductresses

The Kinsey Institute team asserted that their false data showed sex offenders seldom repeat their crimes and that sexual promiscuity does not produce sex crime, disease or divorce. Based on Kinsey, for the first time in American history sexual conduct became privatized in the law. What had been viewed as immoral behavior was reclassified as moral, since the radical sexual conduct was said to have no public health consequences.³⁸ Indeed, Judge Ploscowe explained, one must fulfill one's natural "human need".³⁹

³⁷ S. Bernard Wottis, M.D., "Psychiatry" in *Saturday Review*, March 13, 1948, p. 19.

³⁸ *Sex Offender Treatment: Research Results Inconclusive About What Works to Reduce Recidivism*. Government Accounting Office, GGD-96-137, June 21, 1996. Recent federal health institution studies covering the past half a century of treatment modalities for sex offenders conclude that no form of psychotherapy is shown to arrest sexual predation. This can logically be viewed as a report identifying the failure of the treatment mode of penology.

³⁹ In New York, Ploscowe proposed that all sex offenses can be processed as "misdemeanor sexual misconduct." Kentucky law once held rape as a capital offense: The law today echoes the New York law: Their sexual misconduct statute states, KRS 510.140, represents the basic crimes of rape and sodomy and thus includes all of the higher degrees of each of these crimes. "It provides a useful plea-bargaining tool for the prosecutor in certain cases even though some degree of forcible compulsion or incapacity to consent may be present." On December 30, 1979, *the New York Times* described New Jersey as "hung up lately on the subject of sex." During 1979, according to the news report, New Jersey has:

- Set the age at which teen-agers could legally consent to sex
- Allowed municipalities to establish "zones" for live sex shows and pornography
- Legalized incest over the age of 16
- Legalized necrophilia and sodomy
- Legalized adultery, fornication, promiscuity, and seduction resulting in pregnancy. Reducing penalties for the sale of commercial consumer sex (prostitution).

[E]nforcement of the prohibitions of sex legislation [are a] failure ... out of touch with the realities of [life], and... inherently unenforceable ...the law attempts to forbid an activity which responds to a wide human need.⁴⁰

By 1966, Ploscowe's "wide human need" theory found that⁴¹ "a girl at puberty fully understands...sexual intercourse and the fiction of non-consent, which the law sets up, does not correspond to the facts." Prolific law and psychiatry author Ralph Slovenko took Ploscowe's "wide human need" theory even further:

*Even at the age of four or five, this [female] seductiveness may be so powerful as to overwhelm the adult into committing the offense. The affair is therefore not always the result of the adult's aggression; often the young female is the initiator and seducer.*⁴² (emphasis added)

The Kinsey Reports give Judge Ploscowe, Dr. Guttmacher and Attorney Slovenko, "scientific data" to bring about "a downward revision of the penalties presently imposed on sex offenders."⁴³ As even pedophiles yield only to a "wide human need"⁴⁴ punishment was eliminated even for the most violent of sex offenders, from New York to California.

California State Laws Reflect ALI/MPC/Kinsey Junk Science

Dr. Jeffrey's legal research documents that all state law revisions reflect the ALI/MPC in language and intent. Kinsey's data are important today. Kinsey is in California law, public policy, school sex education and overall belief system. While rape could get death in 18 states and life in 22 others, as noted, many states have dropped the term "rape" from their law while sodomy, initially criminalized largely as a means of controlling public sex and due to its role in the seduction of boys for financial gain, is now legal in most states. The state legal opinions below reflect legal training in most of the US states including California, following Kinsey's testimony to the legislature. Emphasis added.

⁴⁰ Morris Ploscowe, "Sexual Patterns and the Law," in Deutch, A. (Ed.). *Sex Habits of American Men*, New York: Prentice Hall, 1948, at 126.

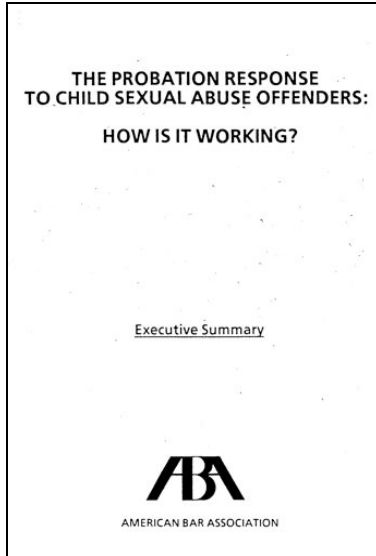
⁴¹ Morris Ploscowe, "Sex Offenses in the New Penal Law." *Brooklyn Law Review*, Vol. 32, 1966, at 274.

⁴² Ralph Slovenko, and C. Phillips, "Psychosexuality and the Criminal Law." *Vanderbilt Law Review*, Vol. 15, 1962, at 809.

⁴³ Ploscowe, "Sexual Patterns and the Law," supra, at 125-126.

⁴⁴ Benjamin Karpman, "Sex Life in Prison." *Journal of Criminal Law and Criminology*. Vol. 38, 1948, at 476. **The ALI-MPC contends for sympathetic treatment for the sex offender: Just as Kinsey is the ALI authority on "normal" sexuality, psychotherapist Benjamin Karpman is an ALI authority on "abnormal" sexuality. In 1948 Karpman declares; "Criminality is a disease and criminals can be cured." He has no evidence nor does any exist after nearly half a century testing the efficacy of various sex offender treatment modalities. Under the common law male sexual restraint is left to self-government and the civilizing effects of marriage, wives and children.**

- ❑ 1983 *The New Jersey Law Journal*: “[T]he older term “rape” was fraught with negative emotion and unrealistic for this era... There is *no justification* for the perception that *the female* is a unique creature, *harmed in some unique way* by untoward sexual behavior.”⁴⁵
- ❑ 1976 *Maine Law Review*: “Only threats of serious bodily injury, kidnapping, *or death* will suffice to make out the crime of rape.”⁴⁶
- ❑ 1969 *The Georgia Law Review*: Child molestation is a “*relatively minor crime*... [the] absurdity of enforcing most of our sex laws... should be obvious, even to the most *prudish Neo-Puritans*.”⁴⁷
- ❑ 1973 Missouri Revision Commission: Rape and child abuse “carry extremely severe punishment... *Those few* who are punished are dealt with cruelly, to the satisfaction of no one except a *shrinking frenetic fringe of maniacal moralists*.”⁴⁸
- ❑ And, adds Missouri, the label “rapist should not be used in the *statutory non consent cases*... The Code reserves that term for the most heinous sexual offender... For *one may have sex with a “fully consenting...social companion ...of 12 years of age.”* (The last review found consent at age 14).⁴⁹



Current rape penalties are often quite trivial. In complex, graduated laws on “age of consent” even the youngest victims (age four in Georgia) are on trial. To prove an authentic rape, a little child must substantiate additional proofs of “*force*.”⁵⁰

The practical results? In 1990, the American Bar Association reported roughly 80% of convicted child molesters plea-bargain, serve no prison time and are generally “monitored” by inadequate probationary units for “three to five years.”⁵¹ The ABA study found only half of the probation departments surveyed nationwide had special regulations or guidelines for handling child abusers. Officials also cautioned that claims of low child abuse revocation rates “may not be warranted” since:

- “[Their sexual orientation to children usually includes a long, pervasive and active history which is extremely difficult to

⁴⁵ C. Nemeth, “How New Jersey Prosecutors View the New Sexual Offense Statutes.” *New Jersey Law Journal*, May 5, 1983, at 6 (Emphasis added).

⁴⁶ Judy R. Potter, “Sex Offenses,” *Maine Law Review*, Vol. 28, 1976, at 69 (Emphasis added).

⁴⁷ E.C.R. Jr., “Pedophilia, Exhibitionism, and Voyeurism: Legal Problems in the Deviant Society.” *Georgia Law Review*, Vol. 4, 1969, at 150. (Emphasis added).

⁴⁸ Orville Richardson, “Sexual Offenses Under the Proposed Missouri Criminal Code,” *Missouri Law Review*, Vol. 38, 1973, at 372, 372. (Emphasis added).

⁴⁹ Vernon's Annotated Missouri Statutes, 2000, 544.040, “Comment to 1973 Proposed Code.” 1973 Missouri Symposium, p. 382, (Emphasis added). See also, Richardson, Id., p. 382.

⁵⁰ *State v. Collins*, 70 GA. 42, 508 S.E. 2d 390, 1998.

⁵¹ American Bar Association. *The Probation Response to Child Sexual Abuse Offenders: How Is It Working? Executive Summary*. State Justice Institute, Grant, SJI-88-11J-E-015, 1990, pp. 1, 7..

Deconstructing Women's, Children's & Family Rights

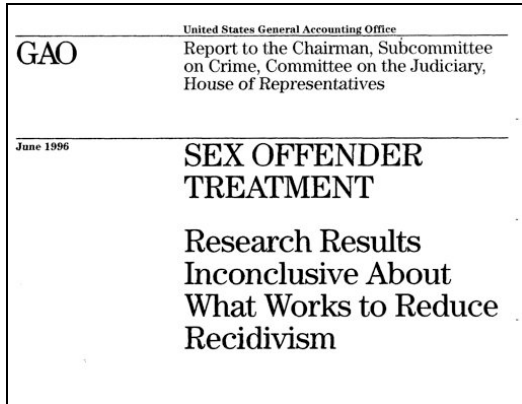
change...[and many will] regress to their abusive behavior once that period [probation] is over.”⁵²

- Moreover, the Government Accounting Office reported that of the 550 sex therapy centers analyzed from 1977 to 1996 none could be said to have proven to cure sex offenders.⁵³

- **“California’s Sexual Offender Treatment and Evaluation Project”**

-

- The GAO report establishes the lack of scientific accountability of all of the sex offender programs as a key



factor in the failure to report success. The only program that appeared to have any kind of scientifically valid evaluation methodology in place was California’s project Legislatively funded and mandated in 1981. Appendix II focuses on the California study.

-
- “In 1985, the California Department of Mental Health developed a treatment program for sex offenders and established a long-term, scientific study to evaluate the program....The California study is a longitudinal effort to evaluate treatment for institutionalized sex offenders. The study includes three groups: a volunteer treatment group (offenders who volunteered for and received treatment), a volunteer control group (offenders who volunteered for

treatment but did not receive it), and a nonvolunteer control group (offenders who refused treatment). Only offenders with convictions for rape or child molestation were eligible.”

-

- Volunteers were paired and matched in terms of age, criminal history, and type of offense. One member of each pair was randomly assigned to the treatment, group, and the other remained in the control group. Offenders matched on the above characteristics who did not volunteer were later selected for the nonvolunteer control group.

-

- A new arrest for either a sex crime or a violent nonsex crime constitutes a reoffense in this study....**To date, preliminary results of the evaluation study have not revealed a statistically significant treatment effect. Overall, offenders completing the treatment program and the volunteer control group had approximately the same recidivism rate for new sex crimes...**Treatment under this sex offender program ended in 1995. However, follow-up of participants will continue until the year 2000.⁵⁴

-

- As noted in the ABA report on “The Probation Response,” despite the wholesale failure of all sex offender therapies to reform the predator—with even California unconfirmed at the time of this writing--the sex felon, as recommended by the legal elite, continues to receive probation and “treatment for his sexual orientation to children”⁵⁵ at taxpayer expense.⁵⁶

⁵² ABA, Ibid, p. 9.

⁵³ Government Accounting Office, “Sex Offender Treatment,” Report to the Committee on the Judiciary, House of Representatives, June 1996.

⁵⁴ Ibid, GAO report.

⁵⁵ Ibid, ABA report.

⁵⁶ *The Boston Herald* Editorial, “Get Tough on Molesters,” January 15, 2001. “Walked,” means no prison time served. Again, despite overwhelming evidence of treatment failure, the *Boston* expose reports no prison time was served by the following: 100% of those convicted of attempted child molestation; 60% convicted of criminally injuring a child; 30% convicted of indecent assault/battery of a child; 20% convicted of child rape and sodomy. Another example is in Tennessee law, where the 13 member Treatment Board is instructed to provide services: “based upon the knowledge that sex offenders are extremely habituated and that there is no known cure for the propensity to commit sex abuse. The board shall develop and implement measures of success based upon a no-cure policy for intervention,” Tennessee Code Section 39-13-704, from Findlaw.com.

Today's child sex abuse epidemic may be traced to decades of "parole" and "treatment" arguments provided by the "law review" system. "Pedophiles comprise the largest class of sex offenders," says *The Georgia Law Review*, which, having been advised by Kinsey, recommends that child molesters "should be released on probation" or after paying "a small fine" if they didn't use "physical force,"⁵⁷ (an oxymoron).

The Kinsey Reports are the only "scientific" research claiming to "prove" children are erotic from birth and desirous of sexual acts. Despite governmental organizations lamenting pandemic child sexual abuse, compromise is visible. Data on sexual abuse of children under age 12 were absent until 2000 from the U.S. Department of Justice longitudinal data while, as noted, the FBI purged all post 1958 statutory rape data.⁵⁸ There are always those who agree that four-year-old boys and girls "may...be the seducers" of older men.⁵⁹

The Purpose Of The 1955 ALI Model Penal Code—To Reduce Crime

Recall his 1952 *Harvard Law Review* article, Wechsler called for a MPC because *the high crime rate proves* common laws are ineffective and "unscientific."⁶⁰ By the 1970s most state codes on violent crime itself had been relaxed while violent crime increased 993% from 1976 to 1999. It would seem that Professor Wechsler's MPC mission to reduce sex crime has failed.

The 5.1% increase in the child population from 1976 to 1999 does not explain skyrocketing levels of sex crimes, venereal diseases, illegitimacy and abortions. The liberalization of all of our sex laws does. Note below a few less well-known statistics, taking a longer view, from the years 1976 to 1999:⁶¹

1976 to 1999:

From 1976 to 1999

70% more murder

416% more forcible rape

5,171% more confirmed Child Sex Abuse

15,866% more reported Child Sex Abuse⁶²

⁵⁷ E.C.R. Jr., "Pedophilia, Exhibitionism, and Voyeurism: Legal Problems in the Deviant Society." *Georgia Law Review*, University of Georgia Law School, Fall 1969, Vol. 4:149 at 151,158.

⁵⁸ *Supra* at 30.

⁵⁹ *Supra* at 54.

⁶⁰ Herbert Wechsler, "Challenge of a ALI-MPC," *Harvard Law Review*, 1952, Vol. 65, at 1103.

⁶¹ *Supra* at 30, Reisman, *FBI*. THESE DATA ARE AVAILABLE IN THE FBI MONOGRAPH CITED AS WELL AS IN "THE REISMAN & JOHNSON REPORT," THE BRIEFING BOOK ON MALE SEXUAL ORIENTATION, AND "CRAFTING GAY CHILDREN," AVAILABLE FROM RSVPAmerica.org. 215% more illegitimate teen births (about one-third the number of adults having illegitimate children); 200% more STD's (most STD'S-HPV, chlamydia, HIV--begin in 1978); 450% more abortions and illegitimacy for girls under 15 years old.

⁶² *Supra* at 30

And in 1999:

67% sex abuse victims are children under 18

64% forced sodomy victims are boys under 12

Over 4,000 “in school” rapes and sex assaults in 1999

Over 350,000 child prostitutes in 1999⁶³

58,200 nonfamily child kidnappings, over half sexually abused⁶⁴

Conclusion

Westlaw, America's prestigious law journal dataset, launched in 1982, cites over seven hundred law journal articles from 1982 to 2000 to Kinsey,⁶⁵ while in academe, Kinsey is cited 1.5 x more than Masters & Johnson. 2 x more than Freud and 4 x more than Paiget. Indiana Law School Dean, Frank Horack, forecast Kinsey's impact on the legal profession in a 1950 *Illinois Law Review*:

The principal impact of the Kinsey Report will be on...the law...[aiding] police officers, prosecutors, judges, probation officers and superintendents of penal institutions [in] judging individual cases. Officials will read it. Defense counsel will cite it...Even when not offered into evidence, it will condition official action. Psychiatrists, psychologists, penologists, juvenile and probation officers...will use the data and their professional advice will be heeded by the judge. Here the Report will control many decisions and dictate the disposition and treatment of many offenders.
⁶⁶

Reprising Justice Breyer, the higher authority of “science” has now fully displaced the authority of the common law based on the Old and New Testaments. So the truthfulness of “scientists” now largely determines the nation's law and public policy

People often heard to echo, “You can't legislate morality—culture drives law.” *The Wall Street Journal* reported that in response to rampant AIDS, in Tanzania, sexual conduct would be punished in a culture with no previous sexual limits. Tanzania now bans pornography, bawdy dances, night trysts. “Within two years teachers report a decrease in schoolgirl pregnancy.” The AIDS committee chairman states, “We're penalizing people less often because almost everyone is behaving better.”⁶⁷

⁶³ Dr. Richard Estes, *The Commercial Sexual Exploitation of Children in the U. S., Canada and Mexico*, the University of Pennsylvania and the University of Montreal, supported by the U.S. Department of Justice/National Institute of Justice), the W. T. Grant Foundation and the Fund for Nonviolence. September 2001, restes@ssw.upenn.edu.

⁶⁴ Finkelhor, et al, NISMART, “Nonfamily Abducted Children,” October 2002. OJJDP, DOJ, p. 2.

⁶⁵ *Supra* at 12, at 205.

⁶⁶ “Sex Offenses and Scientific Investigation,” *Illinois Law Review*, Vol. 44, 1950, at 156, 158.

⁶⁷ *The Wall Street Journal*, January 12, 2001, at 1.

Deconstructing Women's, Children's & Family Rights

The Kinsey reports were and are the pedophile's strongest scientific support. The truth of these data proving the fraudulent science used to launch a sexual revolution can and should be used in courtrooms and legislatures nationwide. It is long past time to rescind all sex offense laws based on or derived from the fraudulent "sex research" of Dr. Kinsey and/or that of any of his disciples. And, it is long past time to remove all funding and credibility from institutions that have been teaching Kinseyism, and accrediting Kinseyan pedagogues to teach, counsel and create curricula for our public, private and parochial schools.

The institutions requiring is such investigation include The Institute for the Advanced Study of Human Sexuality in San Francisco, San Francisco State College, UC Northridge as well as Berkeley, USC, Stanford and all other California state campuses that offer accredited sexuality courses taught by accredited sexuality professionals.

THE ALI MODEL PENAL CODE (MPC) REMOVES PROTECTIONS FOR WOMEN & CHILDREN
U.S. Justice System 1948 - Today: Experts Usurp Jury of One's Peers

1948 - 1953
COMMON LAW
 Only lawful sexual congress is marital heterosexual coitus.

1953 - 1956
Kinsey Reports (KR): The Advent of "Consent"
 KR falsely claim that 95% of white men would be sex offenders, were the common law enforced:
 • 49% frequent prostitutes (prostitution is illegal)
 • 85% have pre-marital sex (fornication is illegal)
 • 50% commit adultery (adultery is illegal)
 • 10%-37% are somewhat homosexual (sodomy is illegal)
While of white women KR falsely claim that:
 • 0% are harmed by rape
 • 50% have pre-marital sex (fornication is illegal)
 • 26% commit and 50% desire adultery (adultery is illegal)
 • 87% of pregnant single women abort (abortion is illegal)
 • 25% of wives abort (illegal)
Of children, KR falsely claim that 100% are orgasmic from birth, hence:
 • Children can benefit from sex with adults and even incest (illegal)
 • Children need early, explicit school sex education (illegal)
 • Children need masturbation, hetero/homosexual acts taught (illegal)
Of parole, KR falsely claim that sex offenders rarely repeat sex crimes.

1953 - 1956
Four Books Call for "Science-Based" Sex Law Reforms
 ■ Sex Habits of American Men, A Symposium on the Kinsey Report
 Edited by Albert Deutsch
 ■ American Sexual Behaviour and the Kinsey Report
 Morris Ernst & David Loh
 ■ The Ethics of Sexual Acts
 Rene Guyon (French Pedophile Jurist)
 ■ About the Kinsey Report
 Edited by Donald Porcer Gaddes & Enid Currie

ALI MPC ADVISORS/LAW
JUDGES:
 Curtis Bok, Judge, Court of Common Pleas, Philadelphia, Pa.
 Charles D. Breitel, Justice, New York Supreme Court, New York, N. Y.
 Gerald F. Flood, Judge, Court of Common Pleas, Philadelphia, Pa.
 Stanley H. Fuld, Judge, New York Court of Appeals, New York, N. Y.
 Learned Hand, Judge (Ret.) United States Court of Appeals, Second Circuit, New York, N. Y.
 John J. Parker, Chief Judge, United States Court of Appeals, Fourth Circuit, Charlotte, N. C.
 Orin L. Phillips, Chief Judge, United States Court of Appeals, Tenth Circuit, Denver, Colo.
 Joseph Sloane, Judge, Court of Common Pleas, Philadelphia, Pa.

LAW SCHOOLS:
 Dale E. Bennett, Louisiana State University Law School, Baton Rouge, La.
 George H. Deason, Professor of Law, Yale Law School, New Haven, Conn.
 Sheldon Glauco, Professor of Law, Law School of Harvard University, Cambridge, Mass.
 Jerome Hall, Professor of Law, Indiana University School of Law, Bloomington, Ind.
 Albert J. Harno, Dean, University of Illinois, College of Law, Urbana, Ill.
 Henry M. Hart, Professor of Law, Law School of Harvard University, Cambridge, Mass.
 Jerome Michael, Professor of Law, Columbia University School of Law, New York, N. Y. (Deceased 1953)
 Frank J. Remington, Associate Professor of Law, University of Wisconsin Law School, Madison, Wis.
 John Barber Waite, Professor of Law, University of California, Hastings College of Law, San Francisco, California.

CORRECTIONS/JUSTICE:
 Sanford Bates, Commissioner, Department of Institutions and Agencies, State of New Jersey, Trenton, N. J.
 Winifred Overholser, M.D., Superintendent, St. Elizabeth's Hospital, Federal Security Agency, Washington, D. C.
 James V. Bennett, Director, Bureau of Prisons, Department of Justice, Washington, D. C.
 Samuel Dash, Acting District Attorney, Philadelphia, Pa.
 Florence M. Kelly, Attorney-in-Charge, Legal Aid Society, Criminal Courts Branch, New York, N. Y.
 Joseph Sarafite, Chief Assistant District Attorney, New York County, New York, N. Y.

ALI MPC ADVISORS/THERAPUTIC SCIENCES
SOCIOLOGY/ENGLISH:
 Ernest W. Burgess, Professor of Sociology, University of Chicago, Chicago, Ill.
 Kenneth D. Johnson, Dean, New York School of Social Work, New York, N. Y.
 Thorstein Sellin, Professor of Sociology, University of Pennsylvania, Philadelphia, Pa.
 Lionel Trilling, Professor of English, Columbia University, New York, N. Y.

PSYCHIATRY/MENTAL HYGIENE:
 Lawrence Z. Freedman, M.D., School of Medicine, Department of Psychiatry and Mental Hygiene, Yale University, New Haven, Conn.
 Harriet S. Guttmacher, M.D., Chief Medical Officer, Supreme Bench of Baltimore, Baltimore, Md.

OTHERS:
 Leonard S. Cottrell, Russell Sage Foundation, New York, N. Y.
 Thomas D. McBride, Philadelphia, Pa.
 Timothy N. Puffer, New York, N. Y.
 Floyd E. Thompson, Chicago, Ill.
 Harrison Tweed, President, The American Law Institute, New York, N. Y.
 Herbert F. Goodrich, Director, The American Law Institute, Philadelphia, Pa.

1956
 Rockefeller Funds ALI Model Penal Code

1957
 Herbert Wechsler, Harvard Law Review, Call for ALI MPC

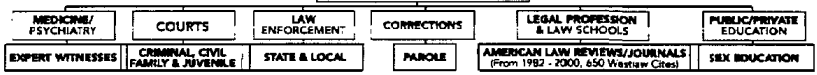
1958
AUTHORS / REPORTERS of ALI MPC
 Herbert Wechsler, Chief (Lawyer) Morris Ploscowe, Assoc. (Judge)
 Louis B. Schwartz, Assoc. (Lawyer) Paul Tappan, Assoc. (Lawyer/Sociologist)

1958
 ALI MPC #4 "Sex Offenses" Draft Sent To States

1956 1962 1963 1963 1967 1969 1970 1971 1956 1970 1972 1971 1972 1972 1974 1978 1973 1979 ALL OTHER STATES
 WI IL MN NM NY GA KA NJ OR MD MA CN CO ID KY MS MO MI

ALI MPC #4 "Sex Offenses" Draft Adopted/Adapted By All States

STATE LEGISLATURES



© 2001 NSVP AMERICA CAMPAIGN
 www.nsvpamerica.org

California "Rape" Laws 2001

(All eligible for parole, "treatment")

| Crime | Penalty | Comments |
|--|---|---|
| Section 261(2). Rape: sexual intercourse against a person's will by means of force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the person or another. Section 289, sexual penetration, uses the same criteria and penalties, using a foreign object, substance, instrument, device, or unknown object, including any part of the body. | State prison, 3, 6, or 8 years | Consent means "positive cooperation in act or attitude pursuant to an exercise of free will. The person must act freely and voluntarily and have knowledge of the nature of the act. The same criteria and penalties apply to forcible oral copulation [288(3)]. |
| 261.5(A) Unlawful sexual intercourse with a minor (non-spouse); or sexual penetration (289h) with a minor; or oral copulation with a minor (288b) | Misdemeanor; imprisonment for not more than one year. | minor = under 18 adult = 18 + |
| 261.5(B) Unlawful sexual intercourse with a minor within 3 yrs. of perpetrator's age. | Misdemeanor | Adults may be liable for additional civil penalties: Adult with minor <2 yrs. younger, \$2,000 |
| 261.5(C) Unlawful Sexual Intercourse. With a minor more than 3 yrs. younger than the perpetrator; either a misdemeanor or a felony; plus civil penalties: | Either a misdemeanor or a felony | 2 yrs. + younger, \$5,000 3 yrs. + younger, \$10,000 |
| 261.5(D) A person 21 or older engages in unlawful sexual intercourse with a minor under 16 | Either a misdemeanor or a felony, county jail for one year, or state prison 2-4 yrs. | Over 21 & under 16, \$25,000 Sexual penetration (289i) and oral copulation (288b(2)) in these circumstances is a felony. |
| 262. Spousal Rape | 3, 6 or 8 years state prison; or probation & payment to battered women's shelter, restitution to victim | Same criteria as rape (force, violence, etc.) |
| 269. Aggravated sexual assault of a child. Child under 14, and person guilty of assault 10 + yrs. older, commits: rape, forcible sodomy, forced oral copulation, or any other sexual penetration (see 289) | 15 yrs. to life. Sentence may not be suspended without a report from psychiatrist or psychologist or treatment program (288.1). | Section 289J specifies 3, 6, or 8 years with these age limits when sexual penetration is with foreign object, substance, instrument, or other part of the body, or for oral copulation(288c(1)). |
| 288.5 Continuous sexual abuse of a child. 3+ acts of substantial sexual conduct with child <14 in not less than 3 months. | Imprisonment for 6, 12 or 16 yrs. | |

California Sodomy Laws 2001

| Crime | Penalty | Comments |
|---|--|--|
| 286 (b)(1) Sodomy with child under 18 and over 16 | Imprisonment up to 1 yr. "consent" is implied if no signs of force are proven. | Hence, a misdemeanor |
| 286(b)(2) Sodomy by person over 21 with child under 16 | Felony-over one year | No year citations? A 20 year old sodomizing a 16 year old would be a misdemeanor. |
| 286(C)(1) Sodomy with child under 14, 10 years younger than actor | 3, 6 or 8 years | A 10-yr old sodomized by a 20 yr old is a felony. What is a 10 yr. old sodomized by a 15 yr. old? |
| 286(C)(2) Forcible sodomy No age cited | 3, 6, or 8 years | Force defined as in rape |
| 286.5 Sexual assault of an animal (bestiality) | Misdemeanor | Less than a year, perhaps simple fine |
| 288 Lewd or Lascivious acts with child under 14 | 3, 6 or 8 years – as in 286 © it appears that "peer" assault is viewed leniently | In addition fine up to \$10,000 may be added |
| 288(b)(1) Lewd or lascivious acts with force | 3, 6, or 8 years | In addition fine up to \$10,000 may be added |
| 288(c)(1) Lewd or lascivious acts with victim of 14 or 15 where actor is 10 years or more older | Either a misdemeanor or felony, county jail not more than one year; or 1, 2, or 3, years imprisonment. | A 24 year old man who commits sexual acts on a 14 year old receives maximum 3 yrs. |
| 289 Sexual penetration by force (as in 286 ©(2)), forcible sodomy/object? | 3, 6 or 8 years | 289(k) sexual penetration defined |
| 289(i) Person over 21 participates? in sexual penetration with person under 16 | Felony—"participates?" | to penetrate genital or anal openings, or abuse by foreign object, substance, instrument or device |
| 289(j) Sexual penetration by person 10 or more years older than child under 14 | 3, 6 or 8 years, sodomizing an infant, toddler up to age 13 yrs | Foreign object includes inserting any body part except a genital organ |
| Current data? | | |