

FROM THE OFFICE OF FORENSICS

by Rick Mandella

As most of you are probably aware, Diane Serber resigned this past spring from her position as Chief of the Office of Forensic Services. Although Diane was uniformly respected in her role as Chief, she decided she would prefer to spend some time pursuing a life of leisure rather than remain a denizen of the bureaucratic labyrinth of Sacramento! Diane's departure left a void experienced by many of us working in the area of forensic programming statewide, and her skills and charm are greatly missed.

Fortunately, an excellent replacement has been found with the appointment of Delmar Gregory, M.D., in July of 1983. Dr. Gregory previously served as Chief of the Division of State Hospital Programs for a year and also spent a year as Acting Medical Director of Patton State Hospital. Dr. Gregory will serve as an effective representative of forensic programs within the Department of Mental Health as well as in providing testimony before the Legislature.

He will be called upon shortly in this latter role since the Senate Judiciary Committee (chaired by Senator Barry Keene) has scheduled hearings in December on "The Insanity Defense and Provisions Governing Release of the Criminally Insane". In particular, Senate Bill 141 (Roberti) and Senate Bill 779 (Russell) will be addressed. The hearings are scheduled for 9:30 a.m. to 5:00 p.m., **December 13 and 14**, Room 4203, State Capitol. Given the drastic changes to the Not Guilty by Reason of Insanity commitment contemplated by the Legislature, testimony by the Forensic Mental Health Association is advised.

In May of 1983 the Director of Mental Health approved an effort by the Department to compile information pertaining to the NGI defense for presentation at the Interim Hearings. The areas the Department is currently studying including the following:

1) **Criminal Recidivism.** What is the rate of criminal recidivism for Not Guilty by Reason of Insanity patients released from

state hospital to outpatient treatment programs, by offense, compared to that for those who win a restoration-of-sanity finding and are discharged outright from state hospital. How does the reoffense rate for NGI patients compared to the reoffense rate for prisoners released after incarceration for comparable offenses.

2) **Duration of stay.** How long do patients remain in state hospital, by offense. How does this compare to prison terms. How does the length of stay in state hospital compare for persons committed from "small" and "large" counties. How does the length of stay in state hospital compare for persons returned to AB 1229 counties versus non-AB 1229 counties.

3) **Demographics of patient population.** Collect information on age, sex, race, etc. of NGI patients. Compare similar data for the state prison population. Collect information on the criminal as well as mental health histories of NGI patients. Determine the mental state of NGI patients upon admission to state hospital; i.e., how many have major mental disorders.

4) **Use of NGI defense.** Review literature to determine the level of research in California and other states on the frequency with which the NGI defense is raised. Compare the frequency of NGI findings with the frequency of arrest and conviction by type of crime.

5) **Survey impact of caselaw.** Survey attorneys to determine what impact the *In re Moye* decision (the 1978 Supreme Court ruling which imposed determinate sentencing upon the NGI population) and the *People v. Drew* decision (the 1978 Supreme Court adoption of the ALI definition of insanity) had on the decision of attorneys to pursue an NGI defense. Determine whether, in any insanity case handled since the passage of Proposition 8, that standard of insanity has made a difference in the decision to employ an insanity defense or in the success rate of such a defense.

Janice Marques, Ph.D., Chief of the Department's Evaluation Section, as well as

Continued page 4

PRESIDENT'S MESSAGE

by Pamela Craig

This morning I received the quarterly nice phone call from the editor of *The Forensic Forum* asking, "Where is your article for the newsletter? It is press time, you are holding up the deadline! I need it today". Apologizing, I mumble I'll get something right out. With pen in hand, paper on the desk, I sit poised. Now What? Nothing comes to mind. Out of all the events that have been happening - what would be interesting to people reading the newsletter?

Should I write about the Task Force on the Insanity Defense and their progress in drafting a policy position for the FMHAC on the proposed changes in the law for the Insanity Defense? No, Art Paull, Chairman of the Task Force could more ably write about that.

Should I write about the 1984 Conference Planning Committee and how the plans and agenda is shaping up? No, I'm sure Don Terleski has got that all covered in his article.

Should I write about the training sessions that the FMHAC in conjunction with the Department of Mental Health has been doing around the State? Now that is a possibility. I don't think this topic will be covered by anyone else. Okay, I'll try that.

Traveling around the State to present the Forensic Mental Health training for Detention Services and Community Outpatient Programs has been informative as well as fun for the faculty. The faculty are all members of the FMHAC who have volunteered to teach at the different workshops. The Detention Services faculty are myself, Dr. Charles Meyers, Alameda County and Mr. Art Lhowe, Santa Clara County. Teaching the Community Outpatient Program has been Mr. Marvin Gross, Atascadero State Hospital, Mr. Don Lee, Los Angeles County, Mr. Arthur Paull, Contra Costa County, and Ms. Diane Serber, unemployed world traveler.

We have presented the program from Eureka to San Diego with stops in-between at Redding, Chico, San Francisco, Sacramento, San Jose, Stockton, Fresno, San Bernardino, Los Angeles, Napa, Santa Ana and Ventura. I can provide you with a fairly detailed description of airlines and airports in California (loved flying Republic Airlines to Eureka - particularly after read-

Continued page 3

EDITORIAL

By the time this issue of *The Forum* hits your mail boxes the sun will soon again rise upon Sacramento and the deliberations in the legislature on SB 141 – the Roberti bill to vastly alter the insanity defense. Clinicians and those interested in the treatment of the mentally ill would be well advised to acquaint themselves with the proposed changes in the law as provided in SB 141. It is a most emotional issue which is deserving of attention by clinicians in particular. Copies of the bill can be obtained from your State Senator or Assemblyman. Whatever your views on the proposed changes, your voice needs to be heard on this crucial public issue.

LETTERS TO THE EDITOR

Dear Editor:

Over the past few months I have heard increasing criticism from psychiatrists that they are excluded from the Forensic Mental Health Associations of California. I do not know of any action taken by the Board or the Nominating Committee to leave out psychiatrists. Membership is open and participation is welcomed.

Those of us who got busy and organized this Association were just mental health professionals who thought this type of an organization was a good idea. Enthusiasm not professional discipline was the only "price of admission".

It would be interesting to hear from some of the psychiatrists as to what is holding them back from more active involvement. A letter to the Forum Editor would be very welcome. Possibly papers might be submitted to the Conference Planning Committee and even volunteers to help in the next conference would be in order. Others might make it known to the Board of interest in serving on the Nominating Committee and the Board.

Possibly the Board of Directors can take some steps to reach out more to psychiatrists we know and help break the ice.

Sincerely,
DONALD T. LEE
A.C.S.W.

IS BIG BROTHER WATCHING?

by Donald R. Terleski, Ph.D.

As you read in the last edition of *The Forum*, the title of the conference to be held at Asilomar on February 29 through March 2, 1984, is "1984: Big Brother and Mental Health". The keynote speaker has not yet been confirmed, but we should be able to give you that information in the next edition of *The Forum*.

The theme for the panel discussion (which is generally held on Thursday morning) will be "Are We Criminalizing The Mentally Ill In 1984?" The Planning Committee has left slots available for members or non-members who wish to present a workshop. A 150 word synopsis should be sent to Ray Stennett at Atascadero State Hospital by November 1, 1983.

Volunteers are needed to work at the conference. Anyone willing to volunteer their services should contact Ray Stennett. People will be needed to work the registration booth, employment exchange, and to help with the book sale during "Authors Night", as well as to introduce various speakers at the workshops.

The conference planning committee is mixing its metaphors by maintaining an Orwellian theme for the conference as well as hosting a "Sadie Hawkins Social Hour" which is reminiscent of bygone days. We will have our usual membership drive during the conference, and members and non-members both should be aware that the fee schedule for the conference of this year is changing. Like many larger organizations, there will be a higher fee for non-members to attend the conference. The annual meeting of the FMHAC has traditionally been held at the conference. This year there again will be election of officers, including the office of president. Persons who are interested in running for office or plan to nominate someone for an office should be sure not to miss the annual business meeting.

THE CURIOUS CLINICIAN

by
Donald T. Lee, A.C.S.W.

We had better start thinking about how we should be treating sex offenders when the new legislation is passed! What new legislation you say? Well, as sure as the sun comes up in the East the circle will come back to intensive supervision and treatment of sex offenders by mental health professionals. I do not expect this next year or even the year after that, but it will come about as soon as there has been a lot of publicity over some frightful sex crime committed by someone released from prison.

For all the years since the passage of AB 1229 we mental health professionals have been under the guns of all sides including some of our own colleagues. We have the most extensive experience in the treatment of this group of criminals in community settings. This knowledge should be put to good use and not lost as we have fewer and fewer MDSOs in the community programs. Our combined experiences must be brought together and carefully examined to highlight those aspects which work best and

offer the most fruitful results. So much important information is revealed in the five-year study at Atascadero State Hospital on this group. We have a base on which much more can and should be built. Information on community programs, especially regarding reoffenses, has never been studied although we have repeatedly urged the legislature to do this. Much of the recent damage can be laid to the fact that legislation was based on the anguish of victims who lashed out blindly at the nearest target.

It is time to start a campaign to mobilize the facts and to let these facts speak out. The blind unknowing reactions to "sex offenders" is not going to solve a serious and major social problem. The public will in time become aware that slogans and simplistic answers do not eradicate social evils!

NGI TASK FORCE

by Arthur J. Paull, L.C.S.W.

On September 19th a group of 8 members of FMHA – comprising the newly appointed Task Force on the Insanity Defense – met for a full day of discussions at the Hyatt Hotel in Burlingame. The task force was appointed in late August by the FMHA Board of Directors as an indication of their concern about pending legislation concerning this population. The major mandate for the task force is to discuss the issue of possible abolition or major alteration of the current system of judication and treatment and to recommend to the Association a position or set of alternative positions on the issue. The members of the task force are: Marion Goodman, Donald Lee, Richard Mandella, Charles Meyers, Arthur Paull (Chairman), Stephen Morin, Charlotte Saito and Roger Wiere.

The group had an excellent and very productive meeting in Burlingame, and from the outline produced by the group, two members developed the first draft of an FMHA position paper. Among other things the paper points out the many public misperceptions about the NGI defense, calls for retention of the defense itself, proposes consideration of an indeterminate commitment for NGI patients, details the effective system of outpatient supervision available through existing county AB 1229 programs, and proposes a mandatory one year minimum of outpatient supervision for all NGI patients.

The second draft of the paper is now in process and will soon be reviewed by the members of the task force. The final draft will go to the FMHA Board for consideration at its November meeting.

If you have any comments or suggestions regarding this issue for the task force, direct them to: Arthur J. Paull, L.C.S.W., Criminal Justice Health Services, 250 Alhambra Ave., L-1, Martinez, CA 94553-3191 or telephone (415) 372-4711.

SECRETARY'S REPORT

by Carolyn Lawson

Old Business:

The minutes of the April 21st board meeting were read and accepted.

The Treasurer's report was given by Marvin Gross. Net earnings from last year's conference at Asilomar were approximately \$8,000, and the association has a current balance of \$11,416.68. Report was accepted.

Carolyn Lawson gave a membership report. She stated that notices had been sent to almost all persons whose membership has expired. The secretary was asked to prepare a new membership list. A lengthy discussion about membership ensued and a number of motions were made and carried: 1) that a membership application be included in the conference announcement, 2) that a discount in the conference fee be given to members (\$15), 3) that the membership fee be increased to \$15, and 4) that we eliminate all categories of membership except member and sustaining member. Proposals 3 and 4 will require changes in the by-laws and the secretary will prepare written changes for submission to the association at the Annual Meeting. The secretary is also to prepare a list of membership benefits for the next meeting. Barbara Greenfield agreed to look into additional membership benefits such as insurance and will present what she learns at the next board meeting.

Pam suggested that we consider holding a raffle for members at the evening social during the next conference.

Conference Planning Committee Report: A discussion of the committee's progress to date and the board's discussions was held. See separate appended report.

Pam gave a report on the Forensic Training Project. The sessions have in general gone very well. From 25 to 50 people participated in each one. One problem which has become apparent is that there have been people with wide ranges of expertise at the sessions so that it has been difficult to make all of the material presented useful and pertinent to everyone. Don Terleski suggested that in future training sessions be designed for and presented to MDO clerical staff.

Barbara Greenfield was authorized to proceed with ordering 150 to 200 membership certificates.

Joe Pendry, editor of the Newsletter for the association, requested that articles be sent to him by September 15 for publication in the next newsletter. His new address is: 756 Buena Vista Drive, Watsonville, CA 95076.

New Business:

Pam presented Art Paull's proposal that we fund a committee to research the issues surrounding the NGI plea. The proposal was approved and funded.

The next board meeting was set for Friday, November 18th at the Hyatt Hotel in Burlingame.

Insanity plea rarely used in county, Stanford study finds.

-reprinted from San Jose Mercury News

by Delia M. Rios, Staff Writer

The insanity defense is rarely used by criminal defendants in Santa Clara County, according to a Stanford University study.

On average, only one in 179 criminal defendants arraigned over 25 months invoked the insanity defense, the recently completed study showed. But among those who did, more than 40 percent were successful.

"The insanity defense is definitely a hot issue", said Stanford University Professor David Rosenhan, who conducted the study. "Everybody feels that it's widely used and that it's a big loophole.

"In most of the cases where it was used, nobody would have any doubt that these people were crazy".

Rosenhan, a professor of law and psychology, conducted the study with students Linda Cheng and Thomas Penelli, using data for the county from October 1980 through November 1982.

Of the 6,635 criminal defendants arraigned in that period, 39 invoked the insanity defense. Sixteen of the defendants were acquitted.

The study's results are compatible with findings by the National Commission on the Insanity Defense. The commission was formed after the public outcry over the acquittal of John Hinckley, tried for the attempted assassination of President Reagan.

Most of the defendants pleading insanity in the Santa Clara County study

were charged with assault, theft and sexual offenses. Only two of the 39 cases involved murder charges.

"The date is a real eye-opener", Rosenhan said. "It took a long time to find those 39 cases and that's all there were. Most people believe it is used much more frequently.

Since Hinckley's acquittal, Rosenhan said, nine states have toughened their insanity laws.

In California, the use of diminished capacity was curtailed as a defense when voters passed Proposition 8, the so-called "victims" bill of rights, in June 1982.

"The Hinckley case created an enormous backlash", Rosenhan said. "The danger is that we will start calling people criminals who you and I would agree have lost their senses".

Santa Clara County District Attorney Leo Himmelsbach agreed that the insanity defense is rarely used here. He estimated that it is used in just 5% of the cases handled by his office. Many of those pleas are withdrawn after court-appointed psychiatrists have examined the defendant.

"The defense attorney looks at a case and the client and is going to explore every possible defense, but in order to be viable it requires expert testimony from psychiatrists", he said. "And a lot of times, they're not insane".

Rosenhan said he plans to conduct a comparative statewide study of the use of insanity pleas.

1983 CONFERENCE Treasurers Report

Marvin Gross

Statement of Income and Expenses for the Forensic Mental Association of California annual conference of 1983:

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|---|-------------|
| INCOME | |
| Conference Fees..... | \$30,991.00 |
| CECU Fees..... | 675.00 |
| TOTAL..... | \$31,666.00 |
| EXPENSES | |
| Facility (including R & B for Speakers) | |
| | \$19,588.70 |
| Refunds..... | 410.00 |
| Postage & Paper..... | 138.12 |
| Conference Planning Committee | |
| Social..... | 1,903.42 |
| Incidentals..... | 133.47 |
| Printing..... | 22.60 |
| Speakers..... | 1,168.31 |
| TOTAL..... | \$23,532.98 |
| NET To FMHAC..... | \$8,133.02 |

President's Message Cont.

ing the newspaper article about them "forgetting" to fuel their plane on a flight from L.A. to Phoenix and being 2 minutes short to the runway), accommodations at Best Western motels, getting around a "strange city" when I suffer from the chronic condition known as "poor sense of direction", losing your class notes in the Los Angeles International Airport as you hurry to get to the 8:30 a.m. starting time for the workshops, etc.

But I don't just remember "the fun things", I also remember the 350 plus people who have attended the workshops. Mental health staff, deputy sheriffs, probation officers, administrators, public guardians, virgins, ol'pros who have seen it all. Very small programs who have a mental health worker assigned "1/10" of their time - to elaborate 24 hour inpatient jail programs. One theme has remained fairly consistent state-wide, all county jails are crowded and the mentally ill involved in the criminal justice system are proliferating. Many people continue to be dedicated to

President's Message Cont.

providing good mental health treatment to the mentally ill offender and creative in developing solutions to reduced resources and impossible problems.

It has been rewarding to meet people working in the Criminal Justice and Mental Health professions and share the common experiences of us all.

From the Office of Forensics Cont.

David Day and Lynn Kucer of that office, are collecting information which will hopefully allow these questions to be answered. A contact has been made with Stanford University to assist in this effort. Data should be available by the time of the hearings which will permit an intelligent response to these pressing issues.

Clearly, the coming legislative session will prove crucial in the area of forensic mental health services. The cooperation of all professional staff working in forensic programs is called for in the preparation and presentation of an effective and coherent position on the insanity defense.

*He saw a Lawyer killing a viper
On a dunghill hard by his own stable
And the Devil smiled, for it put him in
Mind of Cain and his brother, Abel.
-Samuel Taylor Coleridge, "On Doone's
Poetry"*

THE FORENSIC FORUM

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JOSEPH P. PENDRY, L.C.S.W.
Editor, The Forensic Forum
756 Buena Vista Drive
Watsonville, CA 95076

Advertisements for relevant workshops, books, etc. are published at the rate of \$1.00 per line in *The Forum*. FMHAC members receive the first three lines free when announcing a position available or an availability notice in the Employment Exchange. Checks should be made out to "The Forensic Mental Health Association" and accompany the copy to be printed.

FMHAC MEMBERSHIP is available to anyone interested in improving forensic mental health services. Annual membership fees (includes subscription to *The Forensic Forum*) are:

| | |
|---------------------------------|---------|
| Active Membership | \$10.00 |
| General Membership | \$15.00 |
| Sustaining Membership | \$50.00 |

THE FORENSIC MENTAL HEALTH ASSOCIATION of CALIFORNIA

Officers:

- Pamela Craig President
- Donald T. Lee Vice-President
- Carolyn Lawson Secretary
- Marvin Gross Treasurer
- Barbara Greenfield Member-At-Large
- Joseph P. Pendry Member-At-Large
- Dr. Donald Terleski Member-At-Large

FMHAC Office & Newsletter Address:
816 North First Street, Suite D
San Jose, California 95110
Telephone (408) 299-4294

THE FORENSIC MENTAL HEALTH Association of California
816 North First Street, Suite D
San Jose, CA 95110

